रजिस्ट्री सं. डी. एल. (एन) 04/0007/2003–05 REGD. NO. D. L. (N) 04/0007/2003—05

भारत का राजपत्र
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सं. 40] नई दिल्ली, सितम्बर 27—अक्तूबर 3, 2015, शनिवार/आश्विन 5—आश्विन 11, 1937
No. 40] NEW DELHI, SEPTEMBER 27—OCTOBER 3, 2015, SATURDAY/ASVINA 5—ASVINA 11, 1937

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India (Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 28 सितम्बर, 2015

का॰आ॰ 1890.—जीवन बीमा निगम अधिनियम, 1956 (1956 का 31) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार, एतद्द्वारा, श्री शक्तिकांत दास, आर्थिक कार्य विभाग को श्री राजीव महर्षि के स्थान पर तत्काल प्रभाव से और अगले आदेशों तक उक्त निगम के सदस्य के रूप में नियुक्त करती है।

[फा॰ सं॰ 14/3/2003-बीमा-IV]
मुदिता मिश्रा, निदेशक (बीमा)

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 28th September, 2015

S.O. 1890.— In exercise of the powers conferred by Section 4 of the Life Insurance Corporation Act, 1956 (31 of 1956), the Central Government hereby appoints Shri Shaktikanta Das, Secretary, Department of Economic Affairs as Member of the said Corporation *vice* Shri Rajiv Mehrishi with immediate effect till further orders.

[F. No. 14/3/2003-Ins. IV]
MUDITA MISHRA, Director (Insurance)

नई दिल्ली, 3 सितम्बर, 2015

का॰आ॰ 1891.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 19 के खण्ड (ङ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार, एतद्द्वारा, सुश्री अंजुलि चिब दुग्गल, सचिव, वित्तीय सेवाएं विभाग, वित्त मंत्रालय को डॉ॰ हसमुख अढिया के स्थान पर तत्काल प्रभाव से और अगले आदेश होने तक, भारतीय स्टेट बैंक के केन्द्रीय निदेशक मण्डल में निदेशक नामित करती है।

[फा॰ सं॰ 7/2/2012-बीओ-I]
विजय मल्होत्रा, अवर सचिव

New Delhi, the 3rd September, 2015

S.O. 1891.—In exercise of the powers conferred by clause (e) of Section 19 of the State Bank of India Act, 1955 (23 of 1955), the Central Government hereby nominates

Ms. Anjuly Chib Duggal, Secretary, Department of Financial Services, Ministry of Finance, to be a Director on the Central Board of Directors of State Bank of India with immediate effect and until further orders *vice* Dr. Hasmukh Adhia.

[F.No. 7/2/2012-BO-I]
VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 3 सितम्बर, 2015

का॰आ॰ 1892.—भारतीय रिजर्व बैंक अधिनियम, 1934 की धारा 8 की उप-धारा (1) के खंड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, सुश्री अंजुलि चिब दुग्गल, सचिव, वित्तीय सेवाएं विभाग, वित्त मंत्रालय को डॉ॰ हसमुख अढिया के स्थान पर तत्काल प्रभाव से और अगले आदेश होने तक, भारतीय रिजर्व बैंक के केन्द्रीय बोर्ड में निदेशक नामित करती है।

[फा॰ सं॰ 7/2/2012-बीओ-I]
विजय मल्होत्रा, अवर सचिव

New Delhi, the 3rd September, 2015

S.O. 1892.—In exercise of the powers conferred by clause (d) of Sub-section (1) of Section 8 of the Reserve Bank of India Act, 1934, the Central Government hereby nominates Ms. Anjuly Chib Duggal, Secretary, Department of Financial Services, Ministry of Finance, to be a Director on the Central Board of Directors Reserve Bank of India with immediate effect and until further orders vice Dr. Hasmukh Adhia.

[F.No. 7/2/2012-BO-I]
VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 9 सितम्बर, 2015

का॰आ॰ 1893.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3 के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, सुश्री ऍना राय, संयुक्त सचिव, वित्तीय सेवाएं विभाग को तत्काल प्रभाव से और अगले आदेशों तक, श्री अनूप वधावन के स्थान पर बैंक आफ इंडिया के निदेशक मण्डल में सरकारी नामिति निदेशक नामित करती है।

[फा॰ सं॰ 7/2/2012-बीओ-I]
विजय मल्होत्रा, अवर सचिव

New Delhi, the 9th September, 2015

S.O. 1893.—In exercise of the powers conferred by clause (b) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980, read with sub-clause (1) of clause 3 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby nominates Ms. Anna Roy, Joint Secretary, Department of Financial Services, as Government Nominee Director on the Board of Directors of Bank of India with immediate effect and until further orders *vice* Shri Anup Wadhawan.

[F. No. 7/2/2012-BO-I]
VIJAY MALHOTRA, Under Secy.

(राजस्व विभाग)

(हिन्दी अनुभाग-2)

नई दिल्ली, 31 अगस्त, 2015

का॰आ॰ 1894.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10 के उपनियम (4) के अनुसरण में राजस्व विभाग के अधीन केन्द्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवा कर आयुक्त नासिक-I के कार्यालय को, जिनके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्य साधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

[फा॰ सं॰ ई-11017/1/2015-एडी(हिन्दी-2)]
चन्द्रभान नारनौली, निदेशक (राजभाषा)

(DEPARTMENT OF REVENUE)

(HINDI SECTION-2)

New Delhi, the 31st August, 2015

S.O. 1894.—In pursuance of sub rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976, the Central Government hereby Notifies the Office of the Central Excise, Customs & Service Tax Commissioner, Nasik-I, Under the Department of Revenue, where more than 80% staff have acquired the working knowledge of Hindi.

[F. No. E-11017/1/2015-AD(Hindi-2)]
CHANDERBHAN NARNAULI, Director (OL)

नई दिल्ली, 31 अगस्त, 2015

का॰आ॰ 1895.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में राजस्व विभाग के अधीन कार्यालय आयुक्त, केन्द्रीय उत्पाद शुल्क एवं सेवा कर अंकेक्षण आयुक्तालय, जयपुर और इसके अधीनस्थ कार्यालयों अर्थात् उपायुक्त/सहायक आयुक्त केन्द्रीय उत्पाद शुल्क अंकेक्षण वृत्त-जयपुर-प्रथम, जयपुर द्वितीय, अलवर, भिवाड़ी,

उदयपुर, जोधपुर के कार्यालय को, जिनके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

[फा॰ सं॰ ई-11017/1/2015-एडी (हिन्दी-2)]

चन्द्रभान नारनौली, निदेशक (राजभाषा)

New Delhi, the 31st August, 2015

S.O. 1895.—In pursuance of sub rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976, the Central Government hereby Notifies the Office of the Commissioner, Central Excise & Service Tax Auditing Commissionerate Jaipur & Its subordinate offices *i.e.* office of Deputy Commissioner/Assistant Commissioner, Central Excise auditing circle-Jaipur-I, Jaipur-II, Alwar, Bhiwadi, Udaipur, Jodhpur, Under the Department of Revenue, where more than 80% staff have acquired the working knowledge of Hindi.

[F.No. E-11017/1/2015-AD(Hindi-2)]

CHANDERBHAN NARNAULI, Director (OL)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 24 सितम्बर, 2015

का॰आ॰ 1896.—केन्द्रीय सरकार एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं॰ 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, महाराष्ट्र सरकार, गृह विभाग, मुम्बई की पत्र/अधिसूचना सं॰ एमआईएस 2015/सीआर-1413/पीओएल-11 दिनांक 18 सितम्बर, 2015 द्वारा प्राप्त सहमति से अपराध संख्या 406/2015 अंतर्गत धारा 120-बी, 364, 302, 307, 328, 201, 202, 203 भ॰द॰सं॰, 1860 व धारा 3(25) शस्त्र अधिनियम, शीना बोरा की हत्या से सम्बन्धित थाना खार, मुम्बई तथा उपर्युक्त अपराधों के संबंध में या उससे सम्बद्ध प्रयास, दुष्प्रेरण तथा षड्यंत्र तथा उसी संव्यवहार के अनुक्रम में किये गये अथवा उन्हीं तथ्यों से उद्भत किसी अन्य अपराध या अपराधों का अन्वेषण करने के सम्बन्ध में दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और आधिकारिता व विस्तार सम्पूर्ण महाराष्ट्र राज्य पर करती है।

[फा॰ सं॰ 228/45/2015-एवीडी-II]

अजीत कुमार, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 24th September, 2015

S.O. 1896.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State of Government of Maharashtra, Home Department Mumbai, *vide* Notification No. MIS 2015/CR-1413/POL-11 dated 18th Sept. 2015, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Maharashtra for investigation of Khar Police Station Crime No. 406/2015 U/s 120-B, 364, 302, 307, 328, 201, 202, 203 IPC and u/s 3(25) of Arms Act relating to the murder of Sheena Bora and the abetment and conspiracy in relation to the above mentioned offences.

[F. No. 228/45/2015-AVD-II]

AJIT KUMAR, Under Secy.

आयुष मंत्रालय

नई दिल्ली, 24 सितम्बर, 2015

का॰आ॰ 1897.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10 के उप-नियम (4) के अनुसरण में, आयुष मंत्रालय के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालय, जिसके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्द्वारा अधिसूचित करती है।

''मोरारजी देसाई राष्ट्रीय योग संस्थान, नई दिल्ली''

[सं॰ ई-11018/1/2013-आयुष (रा॰भा॰)]

कुंदन सिंह टंगणियां, संयुक्त निदेशक (रा॰भा॰)

MINISTRY OF AYUSH

New Delhi, the 24th September, 2015

S.O. 1897.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976 (as amended in 1987), the Central Government hereby notifies the following office under the administrative control of the Ministry of AYUSH, wherein more than 80% staff have acquired the working knowledge of Hindi.

"Morarji Desai National Institute of Yoga, New Delhi".

[No. E-11018/1/2013-AYUSH(O.L.)]

KUNDAN SINGH TANGANIYA, Jt. Director (O.L.)

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य एवं परिवार कल्याण विभाग)

नई दिल्ली, 7 सितम्बर, 2015

का॰आ॰ 1898.—भारतीय चिकित्सा परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय चिकित्सा परिषद् से परामर्श करने के पश्चात्, एतद्द्वारा उक्त अधिनियम की प्रथम अनुसूची में और निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त अनुसूची में—

(क) ''मुंबई विश्विविद्यालय/महाराष्ट्र स्वास्थ्य विज्ञान विश्वविद्यालय, नासिक, महाराष्ट्र'' के सामने 'मान्यताप्राप्त चिकित्सा अर्हताएं' आगे कॉलम (2) के रूप में उल्लिखित] शीर्षक के अंतर्गत, अंतिम प्रविष्टि के बाद और 'पंजीकरण के लिए संक्षिप्त रूप' [आगे कॉलम (3) के रूप में उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात्:—

(2)	(3)
''मास्टर आफ सर्जरी (आर्थोपेडिक्स'')	एमएस (आर्थोपेडिक्स) (यह 2003 में अथवा उसके बाद नवल औषधि संस्थान, आईएनएचएस, अश्विनी, मुंबई, महाराष्ट, में प्रशिक्षित किए जा रहे छात्रों के संबंध में ''मुंबई विश्वविद्यालय/महाराष्ट्र स्वास्थ्य विज्ञान विश्वविद्यालय, नासिक, महाराष्ट्र'' द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)

सभी के लिए टिप्पणी: 1. स्नातकोत्तर पाठ्यक्रम के लिए स्वीकृत मान्यता 5 वर्ष की अधिकतम अवधि के लिए होगी, जिसके बाद इसका नवीकरण किया जाएगा।

2. उप-धारा 4 में अपेक्षित अनुसार मान्यता को समय पर नवीकरण नहीं कराने के फलस्वरूप संबंधित स्नातकोत्तर पाठ्यक्रम में दाखिला निरपवाद रूप से बन्द हो जाएगा।

[सं॰ यू-12012/505/2015-एमई (पी-II)]

अमित बिस्वास, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 7th September, 2015

S.O. 1898.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:—

In the said Schedule—

(a) against "Mumbai University/Maharashtra University of Health Sciences, Nashik, Maharashtra" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

(2)	(3)
"Master of Surgery (Orthopaedics)"	MS (Orthopaedics) (This shall be a recognised medical qualification when granted by Mumbai University/ Maharashtra University of Health Sciences, Nashik, Maharashtra in respect of students being trained at Institute of Navel Medicine, INHS, Aswini, Mumbai, Maharashtra on or after 2003).

Note to all: 1. The recognition so granted to a Postgraduate Course shall be for a maximum period of 5 years, upon which it shall have to be renewed.

2. Failure to seek timely renewal of recognition as required in sub-clause 4 shall invariably result in stoppage of admissions to the concerned Postgraduate Course.

[No. U-12012/505/2015-ME(P-II)]

AMIT BISWAS, Under Secy.

नई दिल्ली, 17 अगस्त, 2015

का॰आ॰ 1899.—जबकि भारतीय चिकित्सा परिषद् (संशोधन) अध्यादेश, 2013 की धारा 3क की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय चिकित्सा परिषद् का दिनांक 06 नवंबर, 2013 को पुनर्गठन किया गया था;

जबकि भारतीय चिकित्सा परिषद् अधिनियम, 1956 (1956 का 102) की धारा 3 की उप-धारा (1)(ख) के प्रावधान के अनुसरण में निम्नलिखित चिकित्सकों को भारत के राजपत्र में दिनांक 05.11.2013 की अधिसूचना द्वारा राजीव गांधी स्वास्थ्य विज्ञान विश्वविद्यालय, बैंगलोर का प्रतिनिधित्व करने के लिए भारतीय चिकित्सा परिषद् के सदस्य के रूप में निर्वाचित किया गया था:—

क्रम सं॰	विश्वविद्यालय का नाम	निर्वाचित सदस्य का ब्यौरा
9.	राजीव गांधी स्वास्थ्य विज्ञान विश्वविद्यालय, बैंगलोर	(i) डॉ॰ के॰एस॰ श्रीप्रकाश, कुलपति, आरजीयूएचएस (ii) डॉ॰ ए॰एम॰ जगदीश, प्रोफेसर और अनेस्थेसिया अध्यक्ष तथा चिकित्सा अधीक्षक, कार्डियोवैस्कुलर विज्ञान एवं अनुसंधान, बैंगलोर (iii) डॉ॰ शिवानंद एस॰ भिमाली, एसोसिएट प्रोफेसर, बाल रोग विशेषज्ञ, महादेवाप्पा रामपुर मेडिकल कॉलेज, गुलबर्गा

जबकि माननीय उच्च न्यायालय कर्नाटक, बैंगलोर ने डॉ॰ मंजुनाथ, सहायक प्रोफेसर, बैंगलोर मेडिकल कॉलेज और अनुसंधान तथा डॉ॰ एच॰डी॰ रंगनाथ, एसोसिएट प्रोफेसर, ऑर्थोपेडिक्स, केमपेगोडा चिकित्सा विज्ञान संस्थान द्वारा दायर रिट अपील सं॰ 5541-42/2013 को दिनांक 12.03.2014 के अपने आदेश द्वारा स्वीकार किया गया और दिनांक 30.07.2013 के चुनाव नोटिस निरस्त कर दिया, और स्वास्थ्य विश्वविद्यालय द्वारा कराए गए चुनाव को अवैध घोषित कर दिया था।

जबकि डॉ॰ आर॰ निसारगा, प्रोफेसर, विभागाध्यक्ष, बाल रोग आधीचुनचनागिरी चिकित्सा विज्ञान संस्थान, मध्य प्रदेश; सदस्य, भारतीय चिकित्सा परिषद्, जो राजीव गांधी स्वास्थ्य विज्ञान विश्वविद्यालय का प्रतिनिधित्व कर रहे थे, ने उच्च न्यायालय, कर्नाटक, बैंगलोर के दिनांक 12.03.2014 के आदेश के खिलाफ माननीय भारतीय उच्चतम न्यायालय के समक्ष एसएलपी(सी) सं॰ 10581-10582/2014 दायर की थी। माननीय उच्चतम न्यायालय ने अपने दिनांक 20.01.2015 के आदेश द्वारा दिनांक 28.04.2015 के आदेश के साथ पठित दिनांक 23.04.2014 के अपने पूर्व आदेश को इस संदर्भ में संशोधित किया था कि जहां तक याचिकाकर्ता डॉ॰ आर॰ निसारगा का संबंध है विवादित निर्णय का प्रचालन आस्थगित रहेगा।

इसलिए, अब माननीय कर्नाटक उच्च न्यायालय के दिनांक 12.03.2014 के आदेश के अनुसरण में डॉ॰ के॰एस॰ श्रीप्रकाश, डॉ॰ ए॰एम॰ जगदीश और डॉ॰ शिवानंद एस॰ भिमाली तत्काल प्रभाव से राजीव गांधी स्वास्थ्य विज्ञान विश्वविद्यालय का प्रतिनिधित्व करने के लिए भारतीय चिकित्सा परिषद् के सदस्य नहीं रहेंगे।

[सं॰ वी-11013/05/2015-एमईपी-I]
अमित बिश्वास, अवर सचिव

पाद टिप्पणी: मूल अधिसूचना भारत के राजपत्र में दिनांक 9 जनवरी, 1960 के का॰आ॰ 138 द्वारा प्रकाशित हुई थी, और इसमें अंतिम संशोधन भारतीय चिकित्सा परिषद् (संशोधन) द्वितीय अध्यादेश, 2013 (2013 का 11) द्वारा किया गया था।

New Delhi, the 17th August, 2015

S.O. 1899.—Whereas on 06th November, 2013, the Medical Council of India was re-constituted in exercise of the powers conferred by sub-section (1) of section 3A of the Indian Medical Council (Amendment) Ordinance, 2013;

Whereas in pursuance of the provision of sub-section (1)(b) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956) the following doctors were elected as member of the Medical Council of India representing Rajiv Gandhi University of Health Sciences, Bangalore vide notification dated 05.11.2013 in Gazette of India:

S.No.	Name of the University	Details of the Elected Member
9.	Rajiv Gandhi University of Health Sciences, Bangalore	(i) Dr. K.S. Sriprakash, Vice-Chancellor, RGUHS (ii) Dr. A.M. Jagadeesh, Professor and Head of Anaesthesia and Medical Superintendent of Cardiovascular Sciences and Research, Bangalore. (iii) Dr. Shivanand S. Bhimalli, Associate Professor of Paediatrics, Mahadevappa Rampure Medical College, Gulbarge.

Whereas the Hon'ble High Court of Karnataka, Bangalore *vide* its order dated 12.03.2014 allowed the Writ Appeals No. 5541-42/2013 filed by Dr. Manjunath, Assistant Professor, Bangalore Medical College and Research Institute and Dr. H.D. Ranganath, Associate Professor of Orthopaedics, Kempegowda Institute of Medical Sciences and quashed the notice election dated 30.07.2013 and declared the election conducted by the Health University as invalid.

Whereas Dr. R. Nisarga, Professor, HoD of Paediatrics, Adhichunchnagiri Institute of Medical Sciences, Mandya District, Member of Medical Council of India representing Rajiv Gandhi University of Health Sciences files an SLP (C) Nos. 10581-10582/2014 before the Hon'ble Supreme Court of India against the order dated 12.03.2014 of the High Court of Karnataka, Bangalore. Hon'ble Supreme Court of India *vide* its order dated 20.01.2015 modified their earlier order dated 23.04.2014 read with the order dated 28.04.2015 to the effect that the operation of the impugned judgment shall remain stayed only in so far as the petitioner—Dr. R. Nisarga is concerned.

Now, therefore, in pursuance of the order dated 12.03.2014 of Hon'ble High Court of Karnataka, Dr. K.S. Sriprakash, Dr. A.M. Jagadeesh and Dr. Shivanand S. Bhimali shall be deemed to have ceased to be a member of the Medical Council of India representing Rajiv Gandhi University of Health Sciences with immediate effect.

[No. V-11013/05/2015-MEP-I]

AMIT BISWAS, Under Secy.

Foot Note: The principal notification was published in the Gazette of India *vide* number S.O. 138 dated the 9th January, 1960 and was last amended vide Indian Medical Council (Amendment) Second Ordinance, 2013 (11 of 2013).

शुद्धिपत्र

नई दिल्ली, 18 सितम्बर, 2015

का॰आ॰ 1900.—इस मंत्रालय के दिनांक 27.7.2009 की पूर्व अधिसूचना सं॰ यू॰ 12012/25/2009-एमई(पी-II) के क्रम में केन्द्र सरकार एतदद्वारा उल्लिखित अर्हता के पाठयक्रम में कालेज के प्राधिकारियों द्वारा दाखिला रोके जाने के कारण भारतीय चिकित्सा परिषद के परामर्श से उक्त अधिनियम की प्रथम अनुसूची में आगे और निम्नलिखित संशोधन करती है; ''नारायण चिकित्सा कालेज, नेल्लोर, आन्ध्र प्रदेश'' के समक्ष 'मान्यताप्राप्त चिकित्सा अर्हता [आगे कॉलम (2) के तौर पर उल्लिखित] शीर्षक के अंतर्गत 'पंजीकरण के लिए संक्षिप्त रूप' [आगे कॉलम (3) के तोरे पर उल्लिखित] शीर्षक के अंतर्गत निम्नलिखित योग्यता और उससे संबंधित प्रविष्टि को अंतर्विष्ट किया जाएगा, अर्थात्:—

(1)	(2)
''क्षय रोग एवं वक्ष रोग में डिप्लोमा''	डीटीसीडी (यह केवल शैक्षणिक वर्ष 2011-12 तक प्रवेश प्राप्त छात्रों के संबंध में डॉ॰ एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
''एनिस्थीसिया में डिप्लोमा''	डीए (यह केवल शैक्षणिक वर्ष 2011-12 तक प्रवेश प्राप्त छात्रों के संबंध में डॉ॰ एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
''चर्म रोग, यौन रोग और कुष्ठ रोग में डिप्लोमा''	डिडीवीएल (यह केवल शैक्षणिक वर्ष 2011-12 तक प्रवेश प्राप्त छात्रों के संबंध में डॉ॰ एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
''मनश्चिकित्सा में डिप्लोमा''	डीपीएम (यह केवल शैक्षणिक वर्ष 2011-12 तक प्रवेश प्राप्त छात्रों के संबंध में डॉ॰ एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)
''ओप्थलमोलॉजी में डिप्लोमा''	डीओ (यह केवल शैक्षणिक वर्ष 2011-12 तक प्रवेश प्राप्त छात्रों के संबंध में डॉ॰ एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)

नोट: कालेज प्राधिकारियों ने यह वचनपत्र दिया है कि शैक्षणिक वर्ष 2012-13 से उपरोक्त वर्णित पाठ्यक्रम में उन्होंने किसी भी छात्र को दाखिला नहीं दिया है।

[सं॰ यू-12012/233/2015-एमई-I]

डी॰ वी॰ के॰ राव, अवर सचिव

CORRIGENDUM

New Delhi, the 18th September, 2015

S.O. 1900.—In continuation of this Ministry's earlier notification No. U-12012/25/2009-ME(P-II) dated 27.7.2009, the Central Government, in consultation with the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, due to stoppage of admission by the college authorities in the qualifications mentioned against "Narayana Medical College, Nellore, Andhra Pradesh" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], against the following qualifications and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

(2)	(3)
"Diploma in Tuberculosis and Chest Diseases"	DTCD (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada to the students admitted upto the academic session 2011-12 only).
"Diploma in Anaesthesia"	DA (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada to the students admitted upto the academic session 2011-12 only).
"Diploma in Dermatology, Venereology & Leprosy"	DDVL (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada to the students admitted upto the academic session 2011-12 only).
"Diploma in Psychiatry"	DPM (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada to the students admitted upto the academic session 2011-12 only).
"Diploma in Ophthalmology"	DO (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada to the students admitted upto the academic session 2011-12 only).

Note: The college authorities have given undertaking that they have not admitted any student in the above mentioned courses from the academic year 2012-2013.

[No. U-12012/233/2015-ME-I]
D.V. K. RAO, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 16 सितम्बर, 2015

का॰आ॰ 1901.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वरिष्ठ अधीक्षक, डाकघरों और दूसरों, हिमाचल प्रदेश के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चंडीगढ़ के पंचाट (संदर्भ संख्या 99/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/09/2015 को प्राप्त हुआ था।

[सं॰ एल-40012/49/2013-आई आर (डीयू)]
पी॰ के॰ वेणुगोपाल, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 16th September, 2015

S.O. 1901.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 99/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Senior Superintendent of Post Offices & others, Himachal Pradesh and their workman, which was received by the Central Government on 11/09/2015.

[No. L-40012/49/2013-IR(DU)]
P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. ID 99/2013. Reference No. L-40012/49/2013-IR(DU) dated 05.09.2013.

Shri Arvind Kumar son of Late Shri Bam Dev, resident of Village Dulehra, Post Office, Tehsil and District Hamirpur (HP). Workman

Versus

1. The Senior Superintendent of Post Offices, Hamirpur (HP) Himachal Pradesh.

2. The Chief Post Master General, Zonal Office, HP Circle, The Mall, Shimla-171009

Respondents

APPEARANCE

For the workman: Shri R.P. Rana Advocate

For the management: Shri Sanjiv Sharma Advocate

AWARD

Passed on 08.09.2015

Government of India Ministry of Labour vide notification No. L-40012/49/2013-IR(DU) dated 05.09.2013 has referred the following dispute to this Tribunal for adjudication:

> "Whether the action of the Sr. Supdt. of Post Office, Hamirpur in terminating the services of Shri Arvind Kumar son of Shri Bam Dev w.e.f. 1.12.2011 is legally just and valid? To what relief the workman is entitled to and from which date?"

2. The workman filed claim statement in which it is pleaded that he is BA pass and joined as GDSMD (Gramin Dak Sewak Mail Delivery) in Head Post Office Hamirpur Himachal Pradesh on 6.12.2006 on daily wage basis and continued to work up to 30.11.2011 and his services were terminated on 1.12.2011 without any notice or order of termination, payment of retrenchment compensation though he had completed 240 days of service in each calendar year. It is further pleaded that prior to joining of the workman as GDSMD on daily wages, Shri Daramu was working as GDSMD and he was appointed regular group D post in Head office Hamirpur, therefore, the appointment of the workman was against regular vacancy on daily wages. The workman worked as such for five years with the hope that he will be adjusted as regular GDSMD. The workman prayed that the management be directed to reinstate him into service as GSDMD w.e.f. 1.12.2011 with continuity of service and full back wages.

3. The management filed written statement in which it is pleaded that workman worked as outsider paid substitute in place of Shri Dharmoo Ram Gramin Dak Sewak (GDSMD-II) Hamirpur HPO purely at his own risk and responsibility from time to time during the period from 6.12.2006 to 30.11.2011 as Shri Dharmoo Ram GDSMD II engaged paid substitute against vacant post of group D/ postman at Hamirpur HO. The workman was never appointed by the department. The arrangement of paid substitute was terminated on 1.12.2011 as the regular incumbent Shri Dharmoo Ram GDSMD-II joined his duty back. Therefore, there was no need to give him any notice prior to his termination as he was engaged nominee substitute on the clear understanding that he will be discharged on joining of regular incumbent who provided him as substitute. Moreover the contention of completing 240 days by the workman in a year is not applicable as he was engaged on substitute basis at his risk and responsibility. Therefore, it is prayed by the management that the claim statement deserves to be dismissed with costs being devoid of merits.

4. In evidence the workman filed his own affidavit as W1. The workman also relied upon documents Ex. W2 and W3. The management in evidence filed affidavit of Bali Ram Sr. Superintendent of Post Offices Hamirpur Division Hamirpur as Ex. M1 and relied on documents Ex. M2 to M6.

5. I have heard the parties, gone through the evidence and record.

6. During arguments, the learned counsel for the workman submitted that the workman was engaged on 6.12.2006 and worked up to 30.11.2011 when all of a sudden his services were terminated w.e.f. 1.12.2011 without payment of retrenchment compensation, one month pay in lieu of notice and without assigning any reason although the workman had put in more than 240 days of service in each calendar year. On the other hand, the plea of the management is that the workman was engaged to work as outsider paid substitute in place of Shri Dharmoo Ram Gramin Dak Sewak (GDSMD-II) purely at his own risk and responsibility from time to time during the period 6.12.2006 to 30.11.2011 as per rules of the postal department. There is no violation of any provisions of the Industrial Disputes Act 1947 as the workman was never engaged by the department. The arrangement of paid substitute was terminated on 1.12.2011 as the regular incumbent Shri Dharmoo Ram GDSMD-II joined his duty back. Therefore, there is no merit in the claim of the workman Arvind Kumar.

7. The workman joined on 6.12.2006 as substitute in place of Dharamu Ram and worked up to 30.11.2011. He was not allowed to work w.e.f. 1.12.2011 as the incumbent Dharmoo Ram GDSMD came back to join duty. In this context WW 1 Arvind Kumar workman himself admitted in cross-examination that no appointment letter was given at the time of appointment. He also admitted that it is correct that he was engaged as substitute against Dharmoo Ram. He also stated that he was removed from the job. No termination letter was given to the workman. Respondent management admitted this fact that workman was a substitute working in place of Dharmoo Ram and workman Arvind Kumar was engaged to work as outsider paid substitute in place of Shri Dharmoo Ram Gramin Dak Sewak (GDSMD-II) against vacant post purely at his own risk and responsibility from time to time during the period 6.12.2006 to 30.11.2011 as per rules of the postal department. The management also mentioned in its written reply that a substitute has no legal right as far as regularization is concerned the recruitment rules do not provide for recognition of past service that may have been rendered against any post.

8. This fact has not been disputed by the management that workman worked from 6.12.2006 to 30.11.2011. The management has cited circular letter No. 17-115/2001-GDS dated 21.10.2002 issued by Govt. of India, Ministry of Communication and IT, Department of Posts New Delhi. In this circular letter at Page 4 in para 8, clause ii (c) & (d) provide as under:—

(c) Continuation of substitute arrangements beyond 180 days at a stretch, may only be allowed by the authority next higher to the appointing authority, and only in exceptional cases where action has been initiated for regular appointment, if justified by work load and financial norms.

(d) No substitute arrangement shall continue beyond one year. Hence regular/alternative arrangements must be made during the period beyond 180 days to ensure this. If for any unavoidable reason a substitute arrangement is required to be continued beyond one year, specific approval of the Head of Circle will be necessary for reasons to be recorded by the concerned authority.

9. It is admitted position that the management has not followed as mentioned above in the circular letter of the department and the workman was allowed to continue beyond 180 days. Admittedly the workman Arvind Kumar continued working for about five years. So far the reinstatement or regularization of the services of the workman are concerned, the reinstatement cannot be allowed in view of the decision dated 10.3.2003 of Central Administrative Tribunal Calcutta Bench in the case of Sanjib K.R. Mandal Vs. Union of India and Ors. and judgment dated 13.06.2003 of the Hon'ble High Court at Calcutta in W.P.C.T. No. 58 of 2003 in the case of Sanjib Kumar Mandal Vs. Union of India and four others.

10. The workman cited the judgment dated 28.01.2014 of the Hon'ble Supreme Court passed in Civil Appeal No. 4980 of 2014 Tapash Kumar Paul Vs. BSNL & anr. The Hon'ble Supreme Court in this judgment has held that there may be reasons for not allowing reinstatement. In the case in hand it is admitted fact that workman has worked for almost five years as substitute and the rules of the department do not permit for reinstatement or regularization. The circular letter quoted above clearly mentioned that substitute cannot be allowed to work for more than 180 days and in case it is for any unavoidable reason a substitute arrangement is required to be continued beyond one year, specific approval of the Head of Circle will be necessary for reasons to be recorded by the concerned authority.

11. The evidence and submissions led by both the parties do not indicate that the necessary approval of the competent authority was obtained for allowing the substitute (Arvind Kumar) workman to work beyond 180 days.

12. Considering the entite facts and circumstances of the case, the prayer of the workman for reinstatement cannot be allowed as incumbent rejoin his duty and there was no post available. In lieu of reinstatement the workman should be awarded a suitable compensation. Thus in the facts and circumstances of the case Rs. 50,000/- should be paid by the management to the workman as compensation in lieu of reinstatement. The management is directed to pay Rs. 50,000/- (fifty thousand only) to the workman within two months from the date of the publication of the award.

13. The reference is answered accordingly. Central Govt. be informed. Soft as well hard copy be sent to the Central Govt. for publication.

Chandigarh.

8-9-2015.—

S.P. SINGH, Presiding Officer

नई दिल्ली, 28 सितम्बर, 2015

का.आ. 1902.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीपीडब्ल्यूडी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं॰ 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1271/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28/09/2015 को प्राप्त हुआ था।

[सं॰ एल-42012/130/2005-आईआर (सीएम-2)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 28th Septemeber, 2015

S.O. 1902.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Cenral Government hereby publishes the Award (Ref. 1271/2006) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the management of CPWD and their workman, received by the Central Government on 28/09/2015.

[No. L-42012/130/2005-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II CHANDIGARH

Present : Sri Kewal Krishan, Presiding Officer

Case No. I.D. No. 1271/2006

Registered on 9.8.2006

1. All India CPWD (MRM) Karamchari Sanghathan (Regd) through Zonal Secretary CPWD Store Building Sector 7B, Chandigarh.
2. Sh. Dhan Puru, Chowkidar C/O All India CPWD (MRM) Karamchari Sangathan (Regd) through Zonal

Secretary, CPWD Store Building, Sector 7B, Chandigarh.

Petitioner

Versus

1. The Union of India Through the Secretary to Government of India, Ministry of Personnel, Public Grievance and Pensions, Department of Personnel & Training, North Block, New Delhi.
2. Director General of Works, CPWD, Nirman Bhawan, New Delhi.
3. The Executive Engineer, Chandigarh Central Division II CPWD, Kendriya Sadan, Sector 9A, Chandigarh.

Respondents

APPEARANCES

For the workman Sh. S.D. Sharma Adv.

For the Management Sh. Anish Babbar Adv.

AWARD

Passed on 22.9.2014

Central Government *vide* Notification No. L-42012/130/2005IR(CM-II) Dated 31.7.2006, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referfred to as 'Act') has referred the following industrial dispute for adjudication to this Tribunal:-

> "Whether the action of the management of CPWD, Chandigarh in not regularizing the services of Sh. Dhan Puru, *w.e.f.* 19.4.1984 to 16.3.1993 and action of not extending consequential benefits is legal and justified? If not, to what relief he is entitled to?"

In response to the notice, the workman (claimant No. 2) appeared and submitted statement of claim pleading that he joined the management as Baildar on Muster Roll on 19.4.1984. His services were regularized *w.e.f.* 16.3.1993. That he is entitled to regularization of services with effect from the day he joined as Baildar on muster roll *i.e.* 19.4.1984 in view of the judgment of 'Hon'ble Apex Court in Surinder Singh Vs. CPWD reported in AIR 1986 Supreme Court 584 and he is also entitled to all the consequential benefits like increment, uniform allowance, medical facilities etc. and counting of service for the grant of promotion and service benefit of 12 years/ 24 years *w.e.f.* 19.4.1984. That the action of the management in not regularizing the services w.e.f. 19.4.1984 is illegal.

Respondent filed written reply pleading that the Hon'ble Apex Court passed the order for payment of equal pay for equal work and the same has been given to the workman from the date of his appointment. That the Hon'ble Apex Court only advised the Government to take appropriate action to regularize the service of daily-rated workers who were working continuously for more than six months. In pursuance of the said order, the Government of India framed policy and when the post was created the services of the workman were regularized *w.e.f.* 16.3.1993. That he is not entitled to claim allowance etc. prior thereto. That he is not entitled to regularization of service *w.e.f.* 19.4.1984.

In the rejoinder, the workman reiterated his case as set out in the claim petition and further pleaded that the Directorate of Horticulure regularized the services of workers immediately and even the service of Sob Nath and Krishan Pal were regularized *w.e.f.* 18.2.1986 and 5.12.1988. That he is also entitled to for regularization of services from the date he joined the service *i.e.* 19.4.1984.

Parties were given opportunity to lead evidence.

In support of its case, Sh. Dhan Puru (claimant No. 2) appeared in the witness box and filed his affidavit reiterating the case as set out in the claim petition.

On the other hand the management has exaimed Sh. Jaswant Singh, Executive Engineer who filed his affidavit reiterating the stand as taken in the written statement.

I have heard Sh. S.D. Sharma, counsel for the workman and Sh. Anish Babbar, counsel for the management.

Learned counsel for the workman carried me through the judgment of Surinder Singh's case (supra) and submitted that the Hon'ble Apex Court asked the Government to regularize the services of temporary daily wages from the date of their appointment, and as such, the workman is entitled for regularization of services *w.e.f.* 19.4.1984, when he joined the management as Baildar. He has further carried me through the copy of the judgment passed in LPA No. 622 of 2001 decided on 10.4.2013 titled The Director General of Works Vs. Regional Labour Commissioner and Others and submitted that the judgment of Surinder Singh's case (supra) has been implemented and the workers have been paid the arrears of pay etc., and as such, the present workman is also entitled to the regularization of the services from the date of his initial appointment.

Opposing this contention it was argued by the learned counsel for the management that the Hon'ble Supreme Court issued directions to pay the same salary and allowances to all the daily-rated employees as are paid to regular and permanent employees and that direction have been complied with. He has further submitted that the Hon'ble Apex Court only asked the government to initiated action to regularize the services of those employees who have been in continuous employment for more than six months on the date of the judgment. In pursuance of this order of the Apex Court, the Government

initiated action and when the post was created, the service of the workman was regularized *w.e.f.* 16.3.1993 and workman cannot claim regularizatio of his services *w.e.f.* 19.4.1984 as no such direction was issued by the Hon'ble Apex Court for the regularization of the services of the daily-rated workers from the date of their initial appointment.

I have considered the respective contentions.

The Hon'ble Apex Court in Surinder Singh Vs. CPWD reported in AIR 1986 Supreme Court 584 observed as follow:—

> "We allow both the writ petitions and direct the respondents, as in the Nehru Yuvak Kendras case (supra) to pay to the petitioners and all other daily rated employees, to pay the same salary and allowances as are paid to regular and permanent employees with effect from the date when they were respectively employed. The respondents will pay to each of the petitioners a sum of Rs. 1000/- towards their costs. We also record our regret that many employees are kept in service on a temporary daily wage basis without their services being regularized. We hope that the government will take appropriate action to regularize the services of all those who have been in continuous employment for more than six months.

A persual of the order shows that the Hon'ble Apex Court directed the Government to pay the same salary and allowances to daily-rated employees as are paid to regular and permanent employees *w.e.f.* the date when they were employed. It further observed that the Government would initiate action to regularize the services of the workmen who have been in continuous employment for more than six months.The Hon'ble Apex Court did not direct the Government to regularize the services of the daily-rated employees from the date of joining the service and the Government was only directed to pay them the same salary and allowances as are paid to regular and permanent employees with effect from the date when they were employed.

The Government issued Office Order dated 7.6.1988 Annexure-2 giving the guidelines in view of the observations of the Hon'ble Apex Court for absorbing the casual workers against regular post and again the department issued directions for the regularization of the services of eligible muster roll workers *vide* letter dated 25.8.1988 Annexure-A3. It is the definite case of the respondent management that after following the guidelines and instructions, the posts were created and on receipt of the post; the service of the workman was regularized *w.e.f.* 16.3.1993. Thus, the department regularized the service of the workman when the post was created and it is nowhere the case of the workman that the post was existing on the day he was initially appointed as Baildar *i.e.* 19.4.1984. The workman has relied on a list of the employees prepared by Horticulture Department as well as Annexure A11 and A12 *vide* which Sob Nath and Krishan Pal was granted appointment to content that other employees were regularized immediately after the pronouncement of the judgment of Hon'ble Supreme Court but he was denied the benefits for regularization of services *w.e.f.* 19.4.1984. Suffice it to say that nothing has come on the file that present workman is similarly placed as the employees find mentioned in Annexure A10 or in Annexure A11 and A12 and therefore he cannot claim parity with them, as much as there is nothing on the file that any post was existing on the day *i.e.* 19.4.1984 when the workman is claiming regularization of services. The case of Director General of Works (supra) is not applicable as in that case the only question involved was regarding the calculation of arrears of pay etc. in pursuance of the judgment of Surinder Singh's case (supra).

Thus, services were rightly regularized when the post was sanctioned and the action of the management in not regularizing services of workman *w.e.f.* 19.4.1984 is legal and justified and he is not entitled to any relief. The reference is accordingly answered against the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN Presiding Officer.

नई दिल्ली, 28 सितम्बर, 2015

का॰आ॰ 1903.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय आसनसोल के पंचाट (संदर्भ सं॰ 47/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 28/09/2015 को प्राप्त हुआ था।

[सं॰ एल-22012/259/2004-आईआर (सीएम-II)]
राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 28th September, 2015

S.O. 1903.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 47/2005) of the Central Government Industrial Tribunal-Cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of M/s Eastern Coalfields Limited, and their workmen, received by the Central Government on 28/09/2015.

[No. L 22012/259/2004-IR(CM-II)]
RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 47 OF 2005

PARTIES: The management of Satgram Incline of M/s. ECL.

Vs.

Sri Arum Kumar Singh

REPRESENTATIVES:

For the management:	Shri P.K. Goswami Ld. Advocate
For the Union: (Workman)	Shri G.P. Mal & M. Mukherjee, Ld. Advocate
INDUSTRY: COAL	STATE: WEST BENGAL

Dated: 31.08.2015

AWARD

In exercise of powers conferred by clause (d) of Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour *vide* its letter No. L-22012/259/2004-IR(CM-II) dated 05.07.2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of management of Satgram Incline of M/s. ECL in dismissing Sri A.K. Singh from service *vide* order dated 08.03.2001 is legal and justified? If not, to what relief he is entitled?

Having received the Order No. L-22012/259/2004-IR (CM-II) dated 05.07.2005 of the above said reference from the Govt. of India, Ministry of Labour New Delhi for adjudication of the dispute, a reference case No. 47 of 2005 was registered on 17.08.2005 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

The delinquent workman Sri Arun Kumar Singh has stand in his written statement that he was appointed by the erstwhile coal company in the year 1972. He was promoted to the post of Assistant Loading Inspector in the year 1998. He had been discharging his duties honestly and diligently. While Sri Arun Kumar Singh was on duty as an Asst. Loading Inspector at N.S. Coal Depot on 05.01.1999, a team of Vigilance Department of ECL visited the colliery and checked the Attendance Record *vis-a-vis* physical availability at the coal depot of the loading personnel. Due to availability of insufficient coal at the dumping site, the workers were idle at the said coal depot, which was a general phenomenon. Workers used to be scattered and roaming here and there, sometimes, outside the coal loading site and for this reason 17 loading personnel, whose attendance were marked were not found physically available at the Depot on the day of vigilance inspection. The Loaders are all piece-rated employees and they are paid at per with performing workload assigned to each workman and therefore, as per existing practice. they were being allowed attendance any time betweeen 8 AM to 2 PM. Their attendance was valid subject to performing the assigned job depending upon the availability of coal and transport as per rule. This point was categorically explained to the vigilance team members of ECL. But, the team members showed servere highhanded attitude and forced Sri Arun Kumar Singh to sign on many papers which were written in English which hardly have any material value in the eyes of law. Subsequently, the biased Agent of the colliery transferred Sri Arun Kumar Singh to some interior site to perform some inferior job just to humiliate him and issued him charge sheets on alleged mis-conduct which were replied by him in time suitably. But the management decided to hold a domestic enquiry by an Enquiry Officer. During the Enquiry the enquiry Officer stressed on false and fabricated allegations against Sri Arun Kumar Singh without giving him any opportunity to defend the allegations and the principle of natural justice was ignored. Due to biasness of the Enquity officer, Sri Arun Kumar Singh the delinquent employee could not rely upon the fairness of the domestic enquiry and to have more protection against the ill-motive of both Enquiry officer and management in concerted manner, in very helpless situation Sri Singh took the shelter of Civil Court for intervention and justice. The Learned Court granted stay order. But finally the stay order was vacated by ECL. The Enquiry Officer appointed by Satgram Area of ECL was not fair in conducting the enquiry and he did not offer lawful opportunity to Sri Arun Kumar Singh to defend the wrongful allegations brought against him by the management in the form of a charge-sheet. The enquiry officer conducted the enquiry based on sheer assumption unsupported with correct fact and figure as per his whim and perhaps submitted a fabricated enquiry report to the Disciplinary Authority. The Discipllinary authory/General Manager, Satgram Area *Vide* his Office Order No. SAT/GM/PER/E/2000/1091© dated 9.2.2001 dismissed the workman Sri Arun Kumar Singh from service Sri Arun Kumar Singh has stated that the order of dismissal passed by the Disciplinary Authority *i.e.* General Manager, Satgram Area is entirely illegal, mis-appropriate, vitiated and biased because of utter violation of natural justice. The Order of

dismissal was based on ex-parte enquiry in which the workman was not granted any opportunity to defend the charges leveled against him and to cross examine the witnesses produced by the management. All the 17 workers found absent at the time of checking by the vigilance team (being idle for non availability of sufficient coal) had reported for their respective duties at 8 AM in the morning and were granted attendance in the morning as per rule and practice prevalent in the said colliery. In this mine, the loading personnel I are allowed to attend duties any time between 8 AM to 2 PM as they were piece-rated workers and paid on the basis of quantum of work done on availability of loading items. They were given attendance for this reason. Columns are also kept blank for allowing their attendance as and when they may come upto 2 PM subject to performing their assigned work. The workman has prayed to set-a-side the order of dismissal passed by the General Manager, Satgram Area again Sri Arun Kumar Singh and also prayed to pass order of re-instatement in the service to the post of Asst. Loading Inspector with full back wages with effect from 08.03.2001.

Management has stated in their written statement the reference is not tenable. The workman concerned is in the habit of manipulating the attendance of the loading personnel of MS colliery, one of the units of the Management of ECL and as a result he has gained illegally which amounts to huge wrongful financial loss to the Company. On 06.02.1999 when Sri Arun Kumar Singh was on duty at MS coal Depot at Vigilance Team of ECL Company, visited the colliery and inspected the attendance in Form-E Register and compared the same with Form B Register and it was established on record that attendance of 17 persons were booked falsely and as such Sri Arun Kumar Singh was issued with a charge sheet. The workman concerned challenged the charge sheet in Civil Court and prayed for injunction restraining the management to act further with the charge sheet. The management as per the order of the learned Court kept the proceeding of the charge sheet in abeyance. Subsequently when the Injuction was vacated by the learned court the management proceeded the enquiry against Sri Arun Kumar Singh ex-parte as he did not pay any hid to the notice of enquiry given to him by the Enquiry Officer. The Enqury Officer in the report of the enquiry proved the charges leveled against the workman Sri Arun Kumar Singh, considering the gravity of the mis-conduct grave and serious, the Disciplinary Authority issued the order of dismissal. The workman challenged the order of dismissal in Kolkata High Court which was rejected by Hon'ble Kolkata High Court to take shelter in proper forum. Rest of the allegations of the workman has been denied. The management has stated that the workman is not entitled to any relief.

The workman has stated in his rejoinder/written statement that the reference is maintainable under section 10(a)(d) of ID Act read with Section 2 A. Further he has stated that he had always been present before the enquiry officer excepting on 06.09.2001 as on the same day, there was a date of Civil Suit also. Therefore, on 04.09.2001 at 11 a.m. the workman Sri Arum Kumar Singh had requested the Enquity Officer in writing to postpone the enquiry on 06.09.2001. But the Enquiry Officer did not adjourn the proceedings of the enquiry. The Enquiry Officer conducted the enquiry ex-parte in absence of delinquent workman without giving him opportunity to defend himself during proceeding of the enquiry. A copy of the enquiry report only was sent to the workman by special messenger without enclosing therewith the connected papers submitted during enquiry proceedings, advising him to make representation if any against the same if the so desire. The workman Sri Arum Kumar Singh subsequently raised his objection against the dismissal order of GM, Satgram Area and requested for supplying him the copies of supporting documents, on the basis of which the enquiry report was concluded ex-parte by the enquiry officer so that he can make necessary representation against the unlawful and fabricated enquiry proceedings and the order of dismissal passed against him. But the same was not supplied to him nor the workman was given any response to his application. The enquiry officer had not examined any of the workmen who were marked absent on the fateful day nor he had examined the records pertaining to payment of wages on 06.01.1999 of the concerned 17 workmen. As the workman who had reported in late had been paid wages proportionately as per quantity of work done. The enquiry, therefore, was not fair and proper. It is a fully vitiated enquiry. The punishment was awarded based on improper enquiry proceedings. The delinquent workman was not given any opportunity to participate inthe enquiry and the entire proceeding was completed within a day with much hurriedness in most unlawful manner. Sri Arun Kumar Singh has been denied the principle of natural justice.

The workman has filed several documentary evidences as given below:

(1) Xerox Copy of the letter dated 15.01.1999 marked W-III, (2) Xerox copy of the statement of workman Arun Kumar Singh given to G.M., Vigilance, (3) Xerox copy of the reply of the charge sheet given by the workman dated 25.01.1999, (4) Xerox copy of the charge sheet dated 14.01.1999, (5) Xerox copy of the reply to the charge sheet dated 18.01.1999, (6) Xerox Copy of the notice of enquiry dated 25.02.1999, (7) Xerox Copy of the order of reinstanting the workman dated 05.03.1999, (8) Xerox Copy of the workman's application dated 16.04.1999, (9) Copy of office order of Agent, Satgram Project dated 07.01.1999, (10) Xerox Copy of the charge sheet dated 14.01.1999, (11) Copy of enquiry notice dated 25.02.1999, (12) Copy of letter issued to Sri Arun Kumar Singh dated 04.03.1999, (13) Copy of letter issued to Agent, Satgram Project dated 05.03.1999,

(14) Xerox Copy of the enquiry notice dated 12.4.1999, (15) Copy of letter dated 16.04.1999 asking copy of document from E.O., (16) Copy of reply of E.O. dated 15.05.1999, (17) Copy of letter of Sri Arun Kumar Singh dated 18.05.1999 asking copy of documents from E.O., (18) Copy of documents dated 04.09.1999 asking adjournment of hearing dated 06.09.1999, (19) Certified copy of TS 49/99 fixing next date on 06.09.2000, (20) Copy of letter of Sri Arun Kumar Singh dated 23.09.2000, (21) Copy of letter dated 1.3.2001 issued by the G.M., Satgram Area, (22) Copy of letter dated 05.03.2001, 07.03.2001 and 08.03.2001.

The workman has filed affidavit in his oral evidence. The workman has been cross examined by the management. The management has not filed any documentary or oral evidence.

I have heard the argument of Sri Monoj Mukherjee, learned Advocate attended on behalf of the workman. I have also heard the argument of Sri Pijus Kanti Goswami, learned Advocate attended on behalf of the management. The workman has also filed written argument.

Sri Pijus Kanti Goswami, Learned Advocate, appeared on behalf of the management argued that the dismissed workman Sri Arun Kumar Singh manipulated the attendance record of 17 loading personnel. The Vigilance Team of ECL Company did not find presence of any workman out of the said 17 persons. The attendance of all such absentees was marked as 'A' (which means Absent) by the vigilance team members but later on by adding letter 'M' with 'A'it was made 'A.M.' figure number '8' was added to make it a 8 A.M. which amounts to manipulation of the records. He has done this serious offence for his personal gain which amounts of mis-conduct of very serious nature as per the Model Standing Order applicable to the delinquent workman. For this misconduct the workman was charge sheeted and subsequently dismissed after proper enquiry. The order of punishment is just and reasonable.

On the other hand, Sri Monoj Mukherjee, Learned Advocate of the delinquent workman has argued that this punishment is harsh, illegal and an glaring act of injustice to the delinquent workman. On the day of the enquiry there was a date fixed of Civil Suit and the delinquent workman was asked to attend civil court on the same date and time. As such, Sri Arun Kumar Singh, the Delinquent workman had requested the Enquiry officer to postpone the date of enquiry on 06.09.2001 by submitting application on 04.09.2001 but his same request was rejected by the Enquiry officer without any intimation to the delinquent workman. In written argument the Learned Advocate Sri Mukherjee contended that the enquiry officer was biased and partial. Copy of the enquiry report along with other relevant papers were not supplied to the workman in spite of his written request. He was denied opportunity to avail assistance of a Lawyer. He was not given any opportunity to represent against the enquiry report.

It is an admitted fact that the delinquent employee Sri Arun Kumar Singh was an employee of ECL Company since 1972 before dismissal. It is also an admitted fact that while the delinquent workman was on duty on 06.01.1999 as Asst. Loading Inspector a Vigilance Team of ECL, made a surprise check at the colliery. The allegation that he had illegally managed the attendance of 17 persons for his wrongful gain and to cause wrongful loss of ECL. Company has already been denied by the concerned workman.

At the very outset it ought to be considered whether denial by management for assistance of Lawyer to workman caused his prejudice. Now question arises whether the delinquent was entitled for assistance of a Lawyer in a Departmental Enquiry? Domestic enquiries are of simple nature where the person appointed as Enquiry Officer is generally not a Lawyer. In other words, the Enquiry Officer holds the enquiry without being influenced by procedural Juggernaut and hear the delinquent employee in person and in such an informal enquiry a delinquent workman best be able to defend himself. Rules and natural justice do not postulate that the workman should be assisted by a Lawyer. As such in the domestic enquiry the delinquent has no right to take assistance of a Lawyer.

Hon'ble apex court in **Brook Bond (I) Ltd. V/s. Subba Raman** (1961) 2 L.L.J. 417 held that the refusal by the enquiry officer to allow a workman to be represented by a lawyer or an outsider, do not vitiate the enquiry.

The workman has stated in his Affidavit that he deined the charges leveled against him by submitting written show cause. He was asked by Enquiry Officer to appear before him on 16.04.1999 in connection with the said enquiry. In persuasion with the said notice he made a representation dated 16.04.1999 for supply of copies of certain documents which are essential for his defence. But he was refused to supply the same on the plea that enquiry was still being commenced. The delinquent workman has also stated that on 18.05.1999 he again requested the Enquiry officer to supply him the copies of the said documents which are essential for his defence but neither those were supplied to him nor he was given any reply. He was given a notice on 03.09.2000 to appear before an enquiry on 06.09.2000 at 11 a.m. The delinquent employee made written request to the Enquiry officer on 04.09.2000 to defer the same to some other date as he was to appear in Learned Civil Court on 06.09.2000 but the enquiry officer did not consider his request to adjourn the proposed enquiry on 06.09.2000 and completed the enquiry on the same day itself *ex-parte*. This type o enquiry and evidences are vitiated and bad in the eyes of law. All the enquiry was completed in a single day. The delinquent employees was not given any opportunity to defend. Even he was not allowed to represent against the show cause letter submitted

by him against the order of punishment. He was also not supplied with the copies of documents for making representation before passing order of punishment.

As per enquiry report, it appears that workman was guilty of misconduct. The delinquent has manipulated the attendance of workman, for his wrongful gain, which has been deducted by vigilance team.

It appears from records the delinquent employee was issued with two charge sheets. One charge sheet dated 08/09.01.1999 and another on 14.01.1999. The delinquent employee replied both the charge-sheets. Copies of reply as submitted by him were filed. After framing charge against the delinquent employee Sri Arun Kumar Singh, the delinquent employee requested the Enquiry Officer *vide* his letter dated 16.04.1999 and 18.05.1999 to supply him copies of documents. The required documents are mentioned in the letter dated 16.04.1999 and 18.05.1999. But it is evident from records that the delinquent workman was not supplied those documents to enable him to defend before enquiry.

Hon'ble Karnataka High Court in GR Venkateshwara Reddy *V/s* Karnataka State Road Transport Corpn. Has laid down the following requirements of reasonable procedure.

(a) The employee shall be informed of the exact charges which he is called upon to meet;

(b) he should be given an opportunity to explain any material relied on by the management to prove the charges;

(c) the evidence of the management witness should be recorded in the presence of the delinquent employee and he should be given an opportunity to cross-examine such witnesses;

(d) the delinquent employee shall either be furnished with copies of the documents relied on by the management or be permitted to have adequate inspection of the documents relied on by the management.

(e) the delinquent employee should be given the opportunity to produce relevant evidence—both documentary and oral which include the right to examine self and other witnesses; and to call for relevant and material documents in the custody of the employer;

(f) whenever the inquiring authority is different from disciplinary authority, the delinquent employee shall be furnished with a copy of the inquiry report and be permitted to make a presentation to the disciplinary authority against the findings recorded in the inquiry report.

Reasonable opportunity means not only framing charges and asking for explanation but much more. The employee must be appraised of the materials on which the charges were framed so that he could have a proper opportunity of testing or challenging of materials so far as it would be possible for him. Though the technical rules of procedure and evidences do not apply to domestic enquiries, but the rules of natural justice require when a fact is sought to be proved, before a tribunal it must be supported by the statement made in presence of the person against whom the enquiry is held and if a statement is made at his back it ought not to be treated as substantive evidence. "Therefore all the evidences against the person concerned should be taken in his presence and he should be given an adequate opportunity of cross-examining the witnesses giving evidence against him. And no material should be relied upon against him without his being given an opportunity of explaining it. The delinquent workman should further be given the opportunity of questioning the witnesses after knowing in full what they have to state against him. The witnesses on whom the employer relies should generally be examined in presence of the delinquent workman and he must also be informed the materials sought to be used against him and given an opportunity to explain it.

It is elementary principle that a person who is required to answer a charge must know not only the accusation but also the testimony by which the accusation is supported. He must be given a fair chance to hear the evidence in support of the charge and to put such relevant question by way of cross-examination as he desires. Then he must be given a chance to rebut the evidence led against him. This is the barest requirement of an inquiry can be accpeted.

Management ought to have supplied the copies, desired by delinquent, to defend the allegations during enquiry proceeding and after issuing show cause notice. If the documents are voluminous and cannot be supplied to him an opportunity has to be given to him to come and personally inspect the concerned documents. Failure on the part of the management to supply copies of such document is to be considered as violation of principle of natural justice . Furthermore, if the documents are demanded by the delinquent employee for his defence are available in the custody of the management, then the delinquent employee either be summoned to personally go through the same or to obtain copies on payment of cost. It is apparent that in this case the copies of documents requisitioned by the delinquent employee were not supplied by the management to the concerned persons for his defence. The enquiry was conducted on 06.09.2001. The delinquent employee has made written request to Enquiry officer to postpone the said enquiry on 04.09.2001 *i.e.* two days before the date of the enquiry. From perusal of the enquiry report it appears that before 06.09.2001 other dates were fixed for conducting enquiry by the Enquiry Officer but it was turned down as the delinquent had not filed any documents which may show that he was required to appear before Learned Civil Court. Even if it is accepted,

he was to appear in Civil Court for the civil suit, then it is relevant to note that it may not be necessary to appear in person in a civil case normally and it can be represented by the Advocate concerned on behalf of the client. But appearance of the delinquent employee in departmental proceedings was more essential. It appears the delinquent employee deliberately did not appear before the Enquiry Officer. Even if the Enquiry Officer conducted *ex-parte* enquiry against the delinquent workman he should have been given the opportunity to put his defence. On perusal of the enquiry report dated 29.09.2001 it appears that whole enquiry was completed in one day on 06.09.2001 without participation of the delinquent employee which amounts to an act of denial of natural justice on the part of the management. The delinquent employee was served Show-Cause Notice No. GM/JNR/c/816 dated 01.03.2001 by Registered AD post. In this notice it is mentioned that "The reply should reach this office within 72 hours of receipt of this letter failing which it will be presumed that you have no explanation to offer and the management shall dispose of the case as deemed fit without further reference to you". On receipt of this letter on 05.03.2001, the delinquent workman requested the General Manager, Satgram Area by his letter dated 07.03.2001 to supply him copies of some documents so that suitable reply to the Show-cause, may be sent. But the management did not hear to supply copies of those documents which were required by the delinquent workman. On 08.07.2001 the General Manager, Satgram Area passed the dismissal Order *vide* letter Ref. No. 1091 dated 08.09.2001.

Imposing punishment is the last stage in the disciplinary action proceedings against a workman. This stage commences after the disciplinary authority has received the report of the Enquiry Officer, issued a show-cause notice to the delinquent workman, if any and has received his response to such notice. Upon considering the gravity of the misconduct, and the extenuating circumstances, if any, and also any other factor that may be relevant in the fact and circumstances of the case, the disciplinary authority has to decide the quantum of punishment that may be imposed on the delinquent.

The charges were brought under Section 17 of the Model Standing Order which amounts to commitment of theft, fraud, dishonesty in connection with the employer's business property, and willful damage to the property of the Employer. Though the delinquent is guilty of misconduct, but before passing order of punishment the compliance of natural justice was necessary on the basis of enquiry proceedings based on wrong material fact, evidences and circumstances the dismissal order passed by the disciplinary authority, it is evident that the workman has been dismissed from service without complying the principle of natural justice. Rather the order of dismissal has been passed in utter violation of principle of natural justice. The delinquent workman has never been granted any opportunity to defend the case in his support.

In view of the facts as above I think it just and proper to modify and substitute the impinged order of punishment by exercising power under Section 11A of Industrial Dispute Act 1947.

The delinquent workman Sri Arun Kumar Singh if not reached the age of superannuation shall be reinstated in service from 08.03.2001. But as a measure of punishment he will be reinstated with demotion in the lowest post and category in which he was initially appointed in the year 1972. He will not get any type of remuneration excepting 25% of the actual billing amount without any incremental or any other benefits till his reinstatement. If he has reached the age of superannuation, before passing of the Award, he will get 25% of remuneration (as back wages) till date of superannuation, with all pensionary benefits. This must be complied with immediate effect.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 28 सितम्बर, 2015

का॰आ॰ 1904.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **बीसीसीएल** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं॰ 1** धनबाद के पंचाट (संदर्भ संख्या 60/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 28.09.2015 को प्राप्त हुआ था ।

[सं॰ एल-20012/175/2005-आईआर(सीएम-1)]
एम॰ के॰ सिंह, अनुभाग अधिकारी

New Delhi, the 28th September, 2015

S.O. 1904.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 60/2006) of the Central Government Industrial Tribunal-Cum-Labour Court No. 1 Dhanbad as shown in the Annexure in the Industrial Dispute between the management of M/s. BCCL and their workman, received by the Central Government on 28.09.2015.

[No. L-20012/175/2005-IR(CM-I)]
M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act. 1947

Reference No. 60 of 2006

Employer in relation to the management of P.B. Area, M/S. BCCL

And

Their workman

Present: SRI R.K. SARAN, Presiding Officer

Appearances:

For the Employers:—Shree D.K. Verma, Advocate.

For the Workman:—Shree R. Ranjan, Advocate

State :—Jharkhand. Industry : Coal.

Dated: 28-8-2015

AWARD

By order No.-L-20012/175/2005 IR-(CM-1), dated. 01/06/2005, the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Balihari Colliery of M/S. BCCL in not providing employment to Shri Raj Kumar the dependent son of Late Bhikhari Mahato is justified? If not to what relief is the said dependent of Late Bhikhari Mahato entitled?"

2. The case is received from the Ministry of Labour on 03.07.2006. After receipt of reference, both parties are noticed. But after long delay the workman files their written statement on 06.12.2012. The management files their written statement-cum-rejoinder on 30.10.2013. One witness examined on behalf of the workman and document marked as W-1 to W-12.

3. The case of the workman that the deceased employee Late Bhikhari Mahato suffering from desease and was under the treatment of Medical Officer of BCCL and during the treatment he was referred to AIMS, New Delhi. He was declared hundred per cent visually disable in the year 2000, thereafter he died on 23.01.2002. Sri Raj Kumar S/O Late Bhikhari Mahato is claiming for employment in BCCL under the provision of NCWA.

4. The case of the management that according to clause IV of 9.4.0 of NCWA, the dependant to be considered for employment should be physically fit and suitable for employment and aged not more than 35 years. After application of Sri Raj Kumar, he was referred to Medical Board but Sri Raj Kumar is not medically fit for any employment in mine for color blindness in examination of Medical Board. Hence his request for employment was regretted.

5. The applicant has sought for job as a dependant employee. His case was checked and he was sent for medical Board and as it is learnt that the workman found unfit, suffering from colour blindness, his claim was regretted.

6. The Counsel for the management submitted that, the colour blindness is a disqqualification in BCCL. But the workman counsel submitted that, colour blindness person are still working in BCCL, hence the workman be ordered to be taken.

7. As per letter No. BCCL/GM/(P)co-Ord&IMP/2013/3741-59 dated 12.08.2013 marked as Ext, W-1, 10 persons are in the year 2012-13 and 07 persons are in 13-14, provided employment having same infirmities.

8. What ever it may be, this Tribunal orders to re-examine the workman and take him in job even in physically handicapped quota, if the quota vacancy is there or subsequently when occurs.

9. Considering the facts and circumstances of this case, I hold that, the management to accommodate the applicant in the BCCL, Since the workman has applied for job since long, If possible take him in job under disabled quota and place him suitably.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 सितम्बर, 2015

का॰आ॰ 1905.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं॰ 1 धनबाद के पंचाट (संदर्भ संख्या 81/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 28.09.2015 को प्राप्त हुआ था ।

[सं॰ एल-20012/90/2014-आईआर (सी-1)]

एम॰ के॰ सिंह, अनुभाग अधिकारी

New Delhi, the 28th September, 2015

S.O. 1905.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 81/2014) of the Central Government Industrial Tribunal-Cum-Labour Court No. 1 Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 28.09.2015.

[No. L-20012/90/2014-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act, 1947

Reference No. 81 of 2014

Employer in relation to the management of E.J. Area, M/S. BCCL

And

Their workman

Present: SRI R.K. SARAN, Presiding Officer

Appearances:

For the Employers:—Sri U.N. Lall, Advocate.

For the Workman:—Sri S.K. Sinha, Advocate

State:—Jharkhand Industry:Coal

Dated: 10-8-2015

AWARD

By order No.-L-20012/90/2014 IR-(C-1), dated. 03.09.2014, the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act. 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Patherdih Colliery of M/S. BCCL in dismissing Sri Shambhu Orang M/Loader from the service of the company *vide* order dated 5/7.8.2006 is fair and justified? To what relief the concerned workman is entitled to?"

2. The case is received from the Ministry of Labour on 12.09.2014. After receipt of reference, both parties are noticed. The workman files their written statement on 05.11.2014. And the management files thair written statement-cum-rejoinder on 06.02.2015. Management's document marked as M-1 to M-13.

3. The workman has been dismissed by the management on the ground of continuous long absence. The workman was posted under the management as Miner loader which is Cat-V. But the workman took the plea that due to his ill health he was unable to perform the work of miner loader.

4. During preliminary hearing it is revealed that the case is dismissal of workman for long absence on duty. But he has already out of service since 09 years. It is felt to give another chance to the workman to serve.

5. Considering the facts and circumstance of this case, I hold that he be taken into job as category-I workman as fresh employee and also to keep him as probation for a period of two years in the interest of justice. Therefore the question of back wages does not arise at all.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 28 सितम्बर, 2015

का॰आ॰ 1906.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं॰ 1 धनबाद के पंचाट (संदर्भ संख्या 226/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28.09.2015 को प्राप्त हुआ था

[सं॰ एल-20012/189/1994-आईआर (सी-1)]
एम॰ के॰ सिंह, अनुभाग अधिकारी

New Delhi, the 28th September, 2015

S.O. 1906.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 226/1994) of the Central Government Industrial Tribunal-Cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of M/s. CCL and their workmen, received by the Central Government on 28/09/2015.

[No. L-20012/189/1994-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act, 1947

Reference No. 226/1994

Employer in relation to the management of Sarubera, Colliery, M/S. CCL

And

Their workman

Present: SRI R.K. SARAN,
Presiding Officer

Appearances:

For the Employers:—Sri D.K. Verma, Advocate

For the Workman:—None

State : Jharkhand Industry : Coal

Dated: 12-8-2015

AWARD

By order No.-L-20012/189/94/ IR(C-1) dated 31.08.1994, the Central Govt. in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act. 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Sarubera Colliery P.O. Sarubera, Dist.-Hazaribagh of CCL in terminating Shri Bhondu Mahto from the service of the Company *w.e.f.* 31.3.92 is justified? If not to what relief the workman is entitled?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 सितम्बर, 2015

का॰आ॰ 1907.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं॰ 1, धनबाद के पंचाट (संदर्भ संख्या 215/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28.09.2015 को प्राप्त हुआ था।

[सं॰ एल-20012/337/1993-आईआर (सी-1)]
एम॰ के॰ सिंह, अनुभाग अधिकारी

New Delhi, the 28th September, 2015

S.O. 1907.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 215/1994) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 28.09.2015.

[No. L-20012/337/1993-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10(1)(d)(2A) of I.D. Act, 1947.

Reference : No. 215/1994

Employer in relation to the management of Alkusha Colliery M/s. BCCL

And

Their workman

Present: SRI R.K. SARAN,
Presiding Officer

Appearances:

For the Employers : None

For the workman : None

State : Jharkhand Industrey : Coal

Dated 12.8.2015

AWARD

By order No. L-20012/337/93/IR (C-I) dated 25.08.1994 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Alkusha Colliery under Kustore Area No. VIII P.O. Kustore, Dist-Dhanbad in not accepting the date of birth recorded in the winding Engine Operator's certificate of Shri Babu Ram Mushar as 20.4.42 is justified? If not, what relief the workman entitled?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R.K. SARAN, Presiding Officer.

नई दिल्ली, 28 सितम्बर, 2015

का॰आ॰ 1908.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं॰ 1, धनबाद के पंचाट (संदर्भ संख्या 111/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28/09/2015 को प्राप्त हुआ था।

[सं॰ एल-20012/116/1993-आईआर (सी-1)]
एम॰ के॰ सिंह, अनुभाग अधिकारी

New Delhi, the 28th September, 2015

S.O. 1908.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 111/1994) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 28/09/2015.

[No. L-20012/116/1993-IR (C-I)

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10(1)(d)(2A) of I.D. Act, 1947.

Reference: No. 111/1994

Employer in relation to the management of Bhowra (N) OCP, M/s BCCL

AND

Their workman

Present : SRI R.K. SARAN,
Presiding Officer

Appearances:

For the Employers : None

For the workman : None

State : Jharkhand Industry-Coal

Dated 11/8/2015

AWARD

By order No. L-20012/116/93/IR (C-I) dated 28/04/1994 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Bhowra (N) OCP of M/s BCCL in not giving promotion to Grade "B" to Sh. Deb Prasad Hazra EP Electrician is justified? If not, what relief is the Concerned workman entitled to?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed Communicate.

R.K. SARAN, Presiding Officer.

नई दिल्ली, 28 सितम्बर, 2015

का॰आ॰ 1909.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं॰ 1, धनबाद के पंचाट (संदर्भ संख्या 119/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28/09/2015 को प्राप्त हुआ था।

[सं॰ एल-20012/184/1993-आई॰आर॰ (सी-1)]
एम॰के॰ सिंह, अनुभाग अधिकारी

New Delhi, the 28th September, 2015

S.O. 1909.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 119/1994) of the Cent. Govt. Indus. Tribunal-cum-Labour Court

No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 28.09.2015.

[No. L-20012/184/1993-IR (C-I)
M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10(1)(d)(2A) of I.D. Act, 1947.

Reference: No. 119/1994

Employer in relation to the management of Murulidih Colliery, M/s BCCL

AND

Their workman

Present: SRI R.K. SARAN, Presiding Officer

Appearances:

For the Employers : None

For the workman : None

State : Jharkhand Industry : Coal

Dated 10.8.2015

AWARD

By order No. L-20012/184/93/IR (C-I) dated 11/05/1994 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of 20/21 Pits, Murulidih Colliery of M/s BCCL, P.O-Mahuda, Dt-Dhanbad in denying to refer Sh. Ahmad Hussain M/Loader to the Apex Medical Board for assessment of his age is justified? If not, to what relief is the concerned workman entitled?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 सितम्बर, 2015

का॰आ॰ 1910.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं॰ 1, धनबाद के पंचाट (संदर्भ संख्या 214/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28.09.2015 को प्राप्त हुआ था।

[सं॰ एल-20012/340/1993-आईआर (सी-1)]

एम॰ के॰ सिंह, अनुभाग अधिकारी

New Delhi, the 28th September, 2015

S.O. 1910.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 214/1994) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 28.09.2015.

[No. L-20012/340/1993-IR (C-I)

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10(1)(d)(2A) of I.D. Act, 1947

Reference: No. 214/1994

Employer in relation to the management of Jealgora Colliery, M/s. BCCL

AND

Their workman

Present: SRI R.K. SARAN, Presiding Officer

Appearances:

For the Employers : Sri U. N. Lall, Advocate

For the workman : None

State : Jharkhand

Industry : Coal Dated 7.8.2015

AWARD

By order No. L-20012/340/93/IR (C-I) dated 28.04.1994 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Jealgora Colliery of M/s. Bharat CokingCoal Ltd., in denying regularization to Shri Chandeshwar Sahu, Fitter helper Grade "E" as Fitter in excavation grade "B" *w.e.f.* 1988 is justified? If not to what relief the concerned workman is entitled?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed Communicate.

R.K. SARAN, Presiding Officer

नई दिल्ली, 28 सितम्बर, 2015

का॰आ॰ 1911.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं॰ 1, धनबाद के पंचाट (संदर्भ संख्या 256/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28/09/2015 को प्राप्त हुआ था।

[सं॰ एल-20012/325-बी/1993-आईआर (सी-1)]

एम॰ के॰ सिंह, अनुभाग अधिकारी

New Delhi, the 28th September, 2015

S.O. 1911.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 256/1994) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 28.09.2015.

[No. L-20012/325-B/1993-IR (C-I)

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10(1)(d)(2A) of I.D. Act, 1947.

Reference: No. 256/1994

Employer in relation to the management of Kenduadih Colliery, M/s BCCL

AND

Their workman

Present: SRI R.K. SARAN,

Presiding Officer

Appearances:

For the Employers : Shri N.M. Kumar, Advocate

For the workman : None

State : Jharkhand Industry : Coal

Dated 18/8/2015

AWARD

By order No. L-20012/325-B/93/IR (C-I) dated 09/11/1994 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management in not treating the date of Birth of Sri Abdul Sattar as 15.10.38 is justified? If not, what relief the workman is entitled for?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 सितम्बर, 2015

का॰ आ॰ 1912.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं॰ 1, धनबाद के पंचाट (संदर्भ संख्या 110/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28/09/2015 को प्राप्त हुआ था।

[सं॰ एल-20012/132/1993-आईआर (सी-1)]
एम॰ के॰ सिंह, अनुभाग अधिकारी

New Delhi, the 28th September, 2015

S.O. 1912.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 110/1994) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 28.09.2015.

[No. L-20012/132/1993-IR (C-I)]
M. K. SINGH, Section officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 110/1994

Employer in relation to the management of Bhowra (N) OCP, M/S. BCCL

AND

Their workman

Present: Sri R.K. Saran,
Presiding Officer

Appearances:

For the Employers : None
For the workman : None
State : Jharkhand : Industry : Coal

Dated 10.8.2015

AWARD

By order No. L-20012/132/93/IR (C-I) dated 28.04.1994 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Bhowra (N) OCP of M/s. BCCL in denying of Grade "B" to S/Sh Ruplal and Brij Lal EP Fitter from 1986 is justified? If not, what relief are the above workmen entitled to?"

2. After receipt of the referene, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. If is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 सितम्बर, 2015

का॰ आ॰ 1913.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं॰ 1, धनबाद के पंचाट (संदर्भ संख्या 118/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28.09.2015 को प्राप्त हुआ था।

[सं॰ एल-20012/135/1993-आईआर (सी-1)]
एम॰ के॰ सिंह, अनुभाग अधिकारी

New Delhi, the 28th September, 2015

S.O. 1913.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 118/1994) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 28.09.2015.

[No. L-20012/135/1993-IR (C-I]
M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 118/1994

Employer in relation to the management of Bhowra (N) OCP, M/S. BCCL

AND

Their workman

Present : Sri R.K. Saran,
Presiding Officer

Appearances:

For the Employers : None
For the workman : None
State : Jharkhand.
State : Jharkhand : Industry : Coal

Dated 19.8.2015

AWARD

By order No. L-20012/135/93/IR (C-I) dated 06-04-1994 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Bhowra (N) OCP of M/s. BCCL in not granting Excavation Grade "B" to scale in favour of the workman Ram Kisun Dusadh from 25/05/88 is justified? If not, what relief is the workman entitled to?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R.K. SARAN, Presiding Officer

नई दिल्ली, 29 सितम्बर, 2015

का॰आ॰ 1914.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नैशनल बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 07/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.09.2015 को प्राप्त हुआ था।

[सं॰ एल-12011/122/2004-आईआर (बी॰-II)]
नवीन कपूर, अवर सचिव

New Delhi the 29th September, 2015

S.O. 1914.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 07/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 29.09.2015.

[No. L-12011/122/2004-IR (B-II)]
NAVEEN KAPOOR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference: No. 07/2005

Parties: Employers in relation to the management of Punjab National Bank

AND

Their Workmen

Present : Justice Dipak Saha Ray,
Presiding Officer

Appearance:

On behalf of the Management : None

On behalf of the Workmen : Mr. D.N. Lahiri, authorized representative for PNB Employees' Union (W.B.), sponsoring union.

Mr. Chiranjit Bhattacharyya, Ld. Counsel for PNB Progressive Employees Union (W.B.), added party.

State: West Bengal Indsutry: Banking

Dated: 15th September, 2015

AWARD

By order No. L-12011/122/2004/IR (B-II) dated 21-12-2004 the Government of India Ministry of Labour in exercise of its powers under Section 10(1) (d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudiction:

"Whether the action of the management of Punjab National Bank, S.R.M.O. Kolkata to determine the seniority of the erstwhile New Bank of India Employees in the matter of posting in the post carrying special allowance, promotion etc. is violative to the provisions of the settlement as circulated *vide* circular No. 1569 dated 6th February, 1997 as also the placement Scheme dt. 08.12.1993 or not? If yes, what remedy the workmen are entitled to?"

2. Bereft of all unnecessary details, the case of the sponsoring union is as follows:

New Bank of India was amalgamated with Punjab National Bank by a Govt. notification dated 04.09.1993 called the New Bank of India (Amalgamation and Transfer of Undertaking) Scheme, 1993 and accordingly all the employees of erstwhile New Bank of India (hereinafter referred to as Transferor Bank) became the employees of the Punjab National Bank (hereinafter referred to as the Transferee Bank). On 08.12.1993 the Govt. of India in consultation with the Reserve Bank of India prepared scheme called the New Bank of India [Determination of Placement of Employee (officers and workmen) of New Bank of India in Punjab National Bank] (hereinafter referred to as Placement Scheme).

3. The said Placement Scheme dated 08.12.1993 was challenged before different High Courts and ultimately the Hon'ble Supreme Court had been pleased to uphold the placement scheme. It is alleged that at the time of preparation of the priority list of clerical staff for their selection to the posts carrying special allowances/pay, the management was giving one mark for each completed year of service violating the terms of the placement scheme;

because as per of the said scheme completed months of services were also required to be considered for counting the length of service. For such unjust activities of the management industrial dispute was raised by the union. Hence this reference.

4. During pendency of this referene case, the aggrieved employees formed a separate union under the name and style Punjab National Bank Progressive Employees' Union (WB) and that union had been added as party in this case.

5. This added union in its statement of claim has stated that as per Clause 4(a)(iii) of the Placement Scheme, the computation of years of service rendered by the employees of the Transferor Bank is to be considered only for the purpose of determining the minimum length of service for promotion from one cadre to another and also for the purpose of posting in the posts carrying special allowance. But the management in order to deprive the employees of the Transferor Bank, is deliberately misinter preting the said placement Scheme and the ratio of 2:1 which is only applicable for determination of the minimum length of service for promotion, is being applied in all other respects including determination of seniority and for preparation of priority list. Accordingly it is prayed that the management may be directed to follow the placement Scheme in its true sense and spirit by applying the ratio 2:1 only for the purpose of determining the minimum length of service for promotion from one cadre to another and for the purpose of posting in the posts carrying special allowances.

6. The management has contested the case by filing written statement contending *inter alia* that at the time of preparation of the priority list for determination of seniority, the management/Bank followed the terms of settlement as well as the norms of the placement scheme in respect of the employees of the Trnasfer or Bank. The years of service had been appropriately reduced as per the norms of that scheme and the reduced seniority had been added to the actual service rendered in the Transferee Bank for calculation of priority marks. It is also contended that only for the purpose of calculating priority marks/seniority, the dates of appointment were shifted in the priority list only to reflect reduced length of service in repect of the employees of the Transferor Bank by following 2:1 ratio and that the shifting of such date of appointment did not actually any change in the date of appointment in the Bank. It is further contended that on the basis of agreements dated 01.11.1988, 30.01.1997 and 24.12.2002 between the Bank and majority union *viz*. All India PNB Employees Federation one mark was given for each completed year of service in the bank with a maximum 25 marks. Accordingly it is prayed that the instant case may be disposed of in favour of the management by answering the reference in the negative.

7. The Union in order to prove its case has examined three (3) witnesses and proved seven (7) documents marked Exts. W-01 to W-07 respectively. The management has not examined any witness but in support of its case proved six (6) documents marked Exts. M-01 to M-06 respectively.

8. It is submitted on behalf of both the unions that clause 4(a) (iii) of the Placement Scheme is clear, unembiguous and as per the said clause the ratio of 2:1 is only applicable for determining the minimum length of service for promotion and also for the purpose of posting an employee to the posts carrying special allowance etc.

9. It is further submitted that the Central Government by filing affidavit before the Hon'ble Supreme Court in connection with Civil Appeal Nos. 4247-50 of 1996 supported the case of the Union that the ratio of 2:1 was meant for computation of years of service rendered in the Transferor Bank only for the purpose of determining the minimum length of service for promotion from subordinate cadre to clerical cadre etc. and not for any other purpose.

10. It is the general Rule that in case of District or State transfer made on own seeking, the person will be placed at the bottom of the gradation list for the purpose of determination of the inter se seniority unless there is any specific rule in this regard.

11. Admittedly the Central Government framed Placement Scheme on 8th December, 1993 the legality of which was challenged. The Hob'ble Supreme Court by its decision passed in connection with Civil Appeal Nos. 4247-50 of 1996 held that "In view of the legal position as discussed above, and on examining the provisions of the Placement Scheme more particularly Clases 4(a) (iii) (b) (ii) and on consideration of the opinion rendered by the Reserve Bank of India we have no hesitation to come to the conclusion that the said Scheme is neither arbitrary nor irrational and on the other hand a just scheme evolved by the Union Government after due consultation with the Reserve Bank of India and Court cannot interfere with such scheme." (Paragraph 25)

12. On perusal of Clause 5 of the Amalgamation Scheme and Section 9 of the Acquisition Scheme it can be ascertained why the Placement Scheme more particularly the ratio of 2:1 was framed. The background of framing the said scheme was that when the New Bank of India was sustaining loss and would have been otherwise wound up, the Reserve Bank of India advised the Union Government to merge the same with a stronger bank so that the employees did not suffer. While advising amalgamation the Reserve Bank of India also considered the relevant factors for determination of the inter se seniority of the employees and after due deliberations, the Reserve Bank came to the conclusion of accepting the ratio of 2:1 at the stage of placement for promotion which advice was ultimately accepted by the Central Government.

13. Now from paragraph 11 of the said decision of the Hob'ble Supreme Court it appears that during argument the Ld. Counsel (Additional Solicitor General) placed before the Hob'le Court the relevant paragraphs of the counter affidavit of the Reserve Bank of India and the Union Government and also a chart indicating the impact of the ratio of 2:1 as well as the impact of if the entire service of an employee under Transferor Bank was taken into account and it was contended that if the latter course would have been taken then for years to come no employee of the Punjab Nationl Bank namely Transferee Bank would have got any opportunity of getting promotion to the higher cadre. It was further contended that when the Reserve Bank of India monitoring all these Nationalized Banks was consulted and the said Reserve Bank of India decided to accept the ratio of 2:1 after considering several germane factors , it could not be said to be arbitary or irrational as contended by the learned counsel appearing for the appellants. Mr. Reddy learned Additional Solicitor General also contended that the provisions of Clasue 4 (a) (iii) and 4 (b) (ii) was merely an one time exercise and the said provisions was made after due consultation with the Reserve Bank of India and after taking into consideration several important factors, like, respective manpower of the two banks, respective avenues of promotion in two Bank, respective business of two banks and the fact that there had been a large scale promotion in the transferor bank just before amalgamation.

14. The above argument of the Ld. Additional Solicitor General based on statistics and documents was accepted by the Hon'ble Bench of the Supreme Court and it was held that the said Placement Scheme was neither arbitrary nor irrational nor discriminatory.

15. In the said decision, the Hon'ble Supreme Court has been pleased to observe that "..... In the case in hand Amalgamation became necessary as the transferor bank was incurring heavy loss and without the amalgamation it would have been totally would up. When a scheme is framed amalgamating two banks, it is not possible for the Central Government to take the details of the service condition in account and that is why it provided that the employees of the transferor bank would become the employees of the transferee bank on the same terms and condtions, with the same right to pension, gratuity and other matters which would have been admissible to them if they would have continued as the employees of the transferor bank. But so far as the question of their placement and *inter-se* seniority *vis-a-vis* the employees of the transferee bank, the Scheme itself stipulated that in consultation with the Reserve Bank of India the Central Governent after taking relevant factors into consideration may frame the Scheme. It is in exercise of this power the placement scheme has been framed and under the Placement Scheme what has been intended is that for determination of the *interse* seniority and in the matter of promotion from subordinate cadre to the elecrical cadre and from the clerical cadre to the officers cadre while the computation of years of service rendered is taken into account, the computation shall be made in the ratio of 2:1 *i.e.* two years of service in the transferor bank would be considered equivalent to one year of service in the transferee bank. This computation is only one time computation and whether such decision has been taken after taking the relevant factors into account will be considered by us when the question of arbitrariness etc. is considered. But on examining the provisions of the Acquisition Act as well as the provisions of Clause 5(4) of the Amalgamation Scheme framed in exercise of power under Section 9 of the Acquisition Act and the impugned clauses of the Placement Scheme we have no hesitation to come to the conclusion that the Central Government did retain the power to frame the Placement Scheme in question which is essential for determination of the placement of the employees of the transferor bank and the *inter-se* seniority *vis-a-vis* the employees of the transferee bank and framing such scheme it was not necessary to afford an opportunity of hearing to the employees of the transferor bank, as in our view there has been no change in conditions of their service. In this view of the matter we answer the first question by holding that the Central Government had the power to frame the subsequent scheme which has been termed by us in this judgement as the Placement Scheme for the placement of the employees of the transferor bank in the transferee bank and for the determination of their inter se seniority with the employees of the transferee bank." (Pagragraph 18)

16. From the argument of the Ld. Counsel for the Central Government and the observation of the Hon'ble Supreme Court made in the said decision it further appears that the said Placement Scheme was prepared for protecting the interest of the employees of the transferee bank in the matter of promotion and posting in the posts carrying special allowance only. Considering the affidavit of the Central Government filed in the said Civil Appeal Nos. 4247-50 of 1996 and the observation of the Hon'ble Supreme Court it further apears that the ratio of 2:1 is also applicable for preparing priority list in respect of counting the *inter-se* seniority for the purpose of promotion and posting in the posts carrying special allowance. The employees of trasnferor and transferee bank have same rights to pension, gratuity and other matters and in those cases the ratio of 2:1 is not applicable.

17. The management in its written statement (paragraph 1) has specifically stated that "It is submitted that the bank had entered into a conciliation settlement dtd. 16.06.73 with the majority Union *i.e.*, All India PNB Employees' Federation. The said settlement has been modified from time to time. The settlement dtd. 01.11.88 was signed between the parties before Regional Labour Commissioner (Central) New Delhi. In terms of the said

settlement while preparing the priority list, one mark shall be given for each completed year of service in the bank in Clerical cadre (excluding period of apprenticeship and work in non clerical post) from the date of appointment as probationer with a maximum of 25 marks. From the above it is clear that there is no concept of allotting priority marks for completed months." The said contention has not been denied by Punjab National Bank Employees' Union by filing rejoinder. The added party has also not denied the said statement of the management by filing the statement of claim. So the allegation of the PNB Employees' Union that the management is violating the terms of Placement Scheme is preparing the priority list by not counting the completed months of service of the employees, does not stand.

18. According to the PNB Progressive Employees' Union, the Central Government by filing affidavit in Civil Appeal Nos. 4247-50 of 1996, has admitted that only for the purpose of determing the minimum length of service for promotion, computation of years of service rendered in the Transferor Bank shall be in the ratio of 2:1.

19. From paragraph 26 of the said decision of the Hon'ble Supreme Court it appears that the Central Government filed affidavit contending that" .....Central Government after taking into consideration the complete data and entire material on record of the case and in consultation with Reserve Bank of India decided that the service rendered in erstwhile New Bank of India by employees/officers in grade/scale in which they were placed at the time of amalgamation had to be computed in the ratio of 2:1 and that too only for the purpose of computing eligibility for consideration for promotion to next grade/ scale and/or for the purpose of posting on a post carrying special allowance. For all other purpose, the service rendered by the employees of erstwhile New Bank of India has to be treated at par with the service rendered by the employees of New Bank of India in PNB....."

The above paragraph of the affidavit does not support the contention of the added party (PNB Progressive Employees' Union). On the contrary the said affidavit supports the stand of the management that the service rendered by the employees of the Transferor Bank is to be computed in the ratio of 2:1 only for the purpose of computing eligibility for consideration of promotion to next grade/scale and/or for the purpose of posting on a posts carrying special allowance.

20. Having regarding to the facts and circumstances and the discussion made above, it appears that both unions have failed to establish any case in their favour that the ratio of 2:1 is only application for determination of the minimum length of service for promotion and that the said ratio of 2:1 is not applicable in preparing priority list for counting *inter-se* seniority for the purpose of promotion.

21. Accordingly the instant reference is answered in the negative and the workmen are not entitled to any relief whatsoever.

JUSTICE DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata.

The 15th September, 2015.

नई दिल्ली, 29 सितम्बर, 2015

का॰आ॰ 1915.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 37/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/09/2015 को प्राप्त हुआ था।

[सं॰ एल-12012/1/2013-आई आर (बी-II)]

नवीन कपूर, अवर सचिव

New Delhi, the 29th September, 2015

S.O. 1915.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 37/2013) of the Central Government Industrial Tribunal-Cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of Punjab National Bank and their workman, received by the Central Government on 29/09/2015.

[No. L-12012/1/2013-IR(B-II)]

NAVEEN KAPOOR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

RAKESH KUMAR

PRESIDING OFFICER

I.D. No. 37/2013

Ref. No. L-12012/1/2013-IR(B-II) dated 22.03.2013

BETWEEN

Shri Ganga Singh Rawat

H-78, Budha Vihar, Mijhola Line Par.,

Moradabad (U.P.)

AND

1. The Chairman & Managing Director,
   Punjab National Bank,
   HO: 7, Bhikaji Cama Place, New Delhi

2. The Dy. General Manager,
Punjab National Bank, Ram Ganga Vihar,
Phase-II, Moradabad-UP
Moradabad (U.P.)

3. The Chief Manager,
Punjab National Bank,
Ram Ganga Vihar Phase-II, Moradabad-UP
Moradabad (U.P.)

4. The Sr. Manager
Punjab National Bank,
Nazimabad Kotdwar Road, Distt. Bijnour-UP
Bijnour

AWARD

1. By order No. L-12012/1/2013-IR(B-II) dated 22.03.2013 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sri Ganga Singh Rawat, H-78, Budha Vihar, Mijhola Line Par, Moradabad (U.P.) and the Chairman & Managing Director, Punjab National Bank, New Delhi, Moradabad, Bijnore and others for adjudication.

2. The reference under adjudication is:

"WHETHER THE TERMINATION OF THE MANAGEMENT OF PUNJAB NATIONAL BANK MORADABAD IN REMOVING FROM THE SERVICES OF THE BANK TO SRI GANGA SINGH RAWAT *W.E.F.* 13.02.2010 IS LEGAL AND JUST? WHAT RELIEF THE CONCERNED APPLICANT IS ENTITLED TO"

3. On receiving the reference order dated 22.03.2015, notice through registered post was issued to the workman for filing claim statement with list of reliance and witness as well. On the date fixed *viz*. 07.06.2013, the workman appeared in the court before the then Hon'ble Judge/ Presiding Officer, Since then several dates were given on the request of the workman, or otherwise in the interest of justice by the court.

4. The workman *vide* his application W-4 dated 02.04.2014 moved before by learned predecessor, has prayed to adjourn the case till the disposal of his representations sent earlier to several authorities *viz.* Labour Secretary, Govt of India, H.E. President of India, Chief Labour Commissioner, Govt. of India. Letter sent by PNB Employees Association etc., photo copies of so called direction given by Hon'ble Minister and other authorities have also been filed by the applicant.

5. Thereafter several applications were moved before this Tribunal by the workman on the ground that his representations have not been duly decided by the concerned competent authority, neither the directions given by Hon'ble Chief Information Commissioner has been complied with by the concerned aurhorities, on this pre-text adjournment have been sought.

6. Arguments of the workman/applicant have been heard at length. Record has been perused thoroughly. The simple issue to be adjudicated is that whether the action of the PNB, Moradabad regarding his removal from the service of the bank *w.e.f.* 13.02.2012 is legal and just, or not, on this simple and plain point of reference, neither any claim statement/petition/application has been submitted in this court by the concerned person Sri Ganga Singh Rawat, nor any other documentary or oral evidence pertaining to this case has been adduced by him, although sufficient opportunity during the last about two years has been provided to the applicant.

7. Taking into account, facts and circumstances of this case, it seems that the concerned person Shri Ganga Singh Rawat is not at all interested to submit his version before this court or to further proceed with the case. Therefore, in such circusmtances, it is not possible, neither legally feasible, to grant any relief to Shri Ganga Singh Rawat, so far as the letter of reference dated 22.03.2013 is concerned. It can not be inferred that the impugned action of PNB regarding removal from the service *w.e.f.* 13.02.2010, is not legal or unjust. No relief can be hence, granted to Shri Ganga Singh Rawat.

8. Under the circumstances and the facts mentioned herein above, no relief is legally required to be given to the applicant/workman Sh. Ganga Singh Rawat. The reference under adjudication is answered as NO CLAIM AWARD.

Award accordingly.

RAKESH KUMAR, Presiding Officer

15.09.2015

LUCKNOW

नई दिल्ली, 29 सितम्बर, 2015

का॰आ॰ 1916.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय; जबलपुर के पंचाट (संदर्भ सं.168/2001) को प्रकाशित करती है जो केन्दीय सरकार को 29.09.2015 को प्राप्त हुआ था।

[सं॰ एल-12012/149/2001-आईआर (बी-II)]

नवीन कपूर, अवर सचिव

New Delhi, the 29th September, 2015

S.O. 1916.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 168/2001) of the Central Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as show in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen, received by the Central Government on 29.09.2015.

[No. L-12012/149/2001-IR(B-II)]

NAVEEN KAPOOR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/168/2001

Shri Deepak Kumar Joshi,
C/o Shri B.M. Upadhyay,
Near Jain Mandir, Harda,
Distt. Harda. ...Workman

Versus

Regional Manager,
Central Bank of India,
Regional Office,
Above City Post Office,
Mangalwara, Hoshangabad ...Management

AWARD

Passed on this 21st day of August, 2015

1. As per letter dated 13-11-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/149/2001-IR(B-II). The dispute under reference relates to:

> "Whether the action of the management of Regional Manager, Central Bank of India in not considering Shri Deepak Kumar Joshi for regular appointment is justified? If not, what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at page 3/1 to 3/4. Case of Ist party workman is that he worked with 2nd party Bank from 1-1-1987 to 30-12-87. He worked more than 240 days during calendar year. He was not served with any chargesheet. He appeared for examination on 14-3-93. He was interviewed on 25-8-93. He was not informed the out come of the interview. That certain persons similarly situated appeared in the examination were appointed. The Central Office of the Bank issued circular dated 12-3-91. It was made clear that employees who had worked 240 days continuous service for period of 12 months after 1-1-1982 to 31-12-90 will be considered for absorption in immediate available vacancies without any tests or interview. Inspite of the vacancies available, workman was not given appointment.

3. The Bank had regularized persons time to time on permanent post. Jitendra Singh Mansoria, Laxman Gupta, Suresh Choudhary were appointed by the Bank. Subsequently Shri Pramod Gour appeared in the selection was also appointed in the Bank on the basis of selection in August, 2000. Despite workman completed 240 days continuous service and all those persons were appointed in the Bank, workman was not appointed under extent of RBI Instruction. Workman was discriminated. The action of the management is arbitrary and unfair. The violation of Article 14, 16 of the constitution. The action of the management is arbitrary and unfair. The action of the management amounts to unfair labour practice. On such grounds workman prays for regular appointment in the Bank from the time juniors were appointed/regularized.

4. Written Statement is filed by management. Claim of workman is based on his pleadings that he was working in the Bank on daily wages from 1-1-1987 to 31-12-1987 continuously more than 240 days. He had appeared for written exam on 14-3-93 and interview on 25-8-93. 2nd party submits that workman had not completed 240 days. He worked only for 217 days in a calendar year. Workman appeared in selection process on 14-3-93. He was informed on 25-8-93. The result was sent to Zonal Office, Bhopal. Meantime instructions were received from RBI/Union Government imposed the restriction about any appointment. No mistake was committed by the management in this case. Workman was paid wages for his working days. The contentions of workman in Para 1 of his statement of claim is admitted relating to rising dispute and reference by the Government. Rest of the contentions of workman are denied. It is explained that fresh appointments were prohibited by RCI. There is no violation of Article 14, 16 of Constitution.

5. Workman filed rejoinder reiterating his contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i)	Whether the action of the management of Regional Manager, Central Bank of India in not considering Shri Deepak Kumar Joshi for regular appointment is justified?	In Negative
(ii)	If not, what relief the workman is entitled to?"	As per final order.

REASONS

7. There is no dispute from pleadings of parties that workman had appeared in written test on 14-3-93 and interview on 25-8-93. Workman filed affidavit of evidence. In his affidavit of evidence, workman says he was continuously working in the bank from January, 87 to 31-12-87, he worked more than 240 days. As per circular dated 12-3-91, person working more than 240 days in calendar year between 1-1-1982 to 31-12-1988 was eligible for absorption. He also refers to 5-12-95 about vacancy of

the post of peon. From evidence of workman, documents Exhibit W-1 to W-3 were admitted in evidence. After his re-examination, documents Exhibit W-4 to W-7/1 to W-7/6 are proved. Workman in his cross examination says appointment letter was not given to him. He was working in the Bank from 1986 to 2000 as peon. He denies that he not worked for 240 days during any of the calendar year. He had received letter in writing for written exam is produced on record. He was called for oral interview. In his cross-examination after re-examination workman says that he has no acknowledgment of submitting application W-3 in the Bank. The circular W-5 was supplied to him by Daftary. The documents W-7/1 to 7/6 were sent by RPAD. Its acknowledgment was not obtained by him. The acknowledgement of Exhibit W-2 is not produced. W-1 was supplied to him by Branch Manager O.P. Garg on his request.

8. Management's witness Mohd. Akhtar filed affidavit of his evidence stating that workman had not worked for 240 days during any of the year. In his cross-examination, management's witness says the recruitment was stopped as per circular in March, 2001. He was unable to tell when the restriction on appointments was removed. He claims ignorance of recruitment in bank during 2011 to 2013. He claims ignorance of recruitment in Harda branch Regional Office. He claims ignorance of Class IV employees working in Regional Office, Bhopal. He also claims ignorance who many new branch were opened after 2001.

9. The documents produced Exhibit W-8 is letter given to workman by Regional Office that he passed written test and called for interview on 25-8-93. Exhibit W-3 is letter sent by branch manager to Regional Office alongwith the statement of working days of workman Exhibit W-4. The working days of workman are shown 280 days. Exhibit W-5 is copy of circular dated 12-3-91 which provides-absorption of casual employees working 240 days in 12 calendar months during the period 1-1-1982 to 31-12-1990. Exhibit W-6 is letter given to Regional Office. Workman was working for 248 days during period 24-10-86 to 23-10-87. Exhibit W-7/1 to 7/7 are representations submitted by workman contending that he was working for more than 240 days. The evidence of workman is supported by documentary evidence. Documents produced by management Exhibit M-1 is letter issued by Regional Office dated 3-9-01 calling information about engagement of casual labours. In Exhibit M-2, working days of workman are shown 89 days during perod 1-1-87 to 31-3-87. In Exhibit M-3, Page 5 question about absorption of workman and Pramod Gaur was considered. The decision was taken that posting will be shown subject to clearance of vacancies form higher authority. Exhibit M-4 relates to the selection process initiated in the Bank in 1997. In Exhibit M-5, working days of Ist part workman during 93 to 96 are shown 51 days, 52 days. M-6 is document of renewal of Employment Exchange Card of the workman. Exhibit M-7 shows working days of workman from 1-1-1987 to 31-12-1987, the working days are more than 240 days. In Exhibit M-8, particulars of working days of workman are shown for the period 93 to 96. The evidence of workman that he worked more than 240 days in 1987 is supported by documents. Exhibit M-7 produced by management Circular Exhibit W-5 provides for absorption of casual labours working more than 240 days in 12 calendar months during the period 1-1-1982 to 31-12-1990 supports the claim of workman for absorption as permanent peon. The 2nd party has not produced any documents relating to restriction of appointment by RBI after 21-8-90.

10. Reliance is placed by counsel for workman Shri Tripathi on ratio held in—

> Case of Indrapal Yadav and others *versus* Union of India and others reported in 1985(2) SCC 648. Their Lordship dealing with Section 25-F,G of ID Act and termination of services on ground of winding up of projects was held not justified. In above cited case, their Lordship considered during pendency of their petition before Supreme Court, Railway Administrative Scheme for absorption of temporary workman on completion of 260 days continuous employment. The scale made applicable to those on service on January, 1984. It seems choice of that date likely to create arbitrary discrimination, scheme accepted by Supreme Court subject to modification in the date from 1 January, 84 to January 1, 1981. Their Lordship held absorption should be in order of length of continuous service.

In case of Rajpal *vrs.* State of Haryana and others reported in 1996(7) SCC 381. Their Lordship dealing with regularization of persons similarly situated also taken into service and their service regularized pursuant to order of Supreme Court. Appellant being the only person left out held also entitled to same relief.

In present case, evidence of workman about appointing other persons appeared for written test and interview were given appointment is not shattered in his cross-examination. The ratio held in above case covers the claim of workman. No cogent reasons is proved for denial of absorption of workman. The ratio relied in case of Mohan B *versus* Presiding Officer, CGIT, Chennai relates to termination in violation of Section 25 of ID Act needs no detailed discussion as ratio has no bearing to the controversy between parties.

Ratio held in case of Hari Nandan Prasad and another *versus* management of FCI and another reported in 2014(7) SCC 190 also relates to violation of Section 25-F of ID Act needs no detailed discussion. Workman has established that he completed 240 days continuous service in 1987. He is entitled for absorption as per Circular Exhibit W-5 dated 12-3-91. The management not absorbing workman is

discriminatory and therefore I record my finding in Point No. 1 in Negative.

11. Point No. 2—In view of my finding in Point No. 1, question arises to what relief the workman is entitled. Workman in his affidavit says that he was unemployed but he has not disclosed how he was surviving all those years, therefore absorption of workman with 25% backwages will be appropriate.

12. In the result, award is passed as under:—

(1) The action of the management of Regional Manager, Central Bank of India in not considering Shri Deepak Kumar Joshi for regular appointment is not proper and legal.

(2) 2nd party is directed to absorb workman as peon from date of order of reference *i.e.* 13-11-2001 with 25% back wages.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 29 सितम्बर, 2015

का॰आ॰ 1917.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार युको बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं.107/99) को प्रकाशित करती है जो केन्दीय सरकार को 29.09.2015 को प्राप्त हुआ था।

[सं॰ एल-12012/160/98-आईआर (बी-II)]
नवीन कपूर, अवर सचिव

New Delhi, the 29th September, 2015

S.O. 1917.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 107/99) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as show in the Annexure, in the industrial dispute between the management of UCO Bank and their workmen, received by the Central Government on 29/09/2015.

[No. L-12012/160/98-IR(B-II)]

NAVEEN KAPOOR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/107/99

Shri Mohanlal Sahu,
S/o Shri Hemlal Sahu,
C/o Shri Gopi Pan Thela,
Bajrang Para, Kohak,
Bhilai (C.G) ...Workman

Versus

Branch Manager,
UCO Bank, Sector-I, Kohak Branch,
PO Bhilai,
Distt. Durg (C.G) ...Management

AWARD

Passed on this 26th day of August, 2015

1. As per letter dated 28-2/8-3/99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/160/98/IR(B-II). The dispute under reference relates to:

> "Whether the termination of services of Shri Mohanlal Sahu, S/o Hemlal Sahu, Ex-casual employee of Khak Branch, Bhilai of UCO Bank by the management of the bank *w.e.f.* 1-5-97 is justified? If not, what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 2/1 to 2/4. Case of workman is that he was appointed as messenger after Jaisingh cash peon was transferred to Bailadila Branch of UCO Bank. He was appointed form 28.8.93. He worked in said branch from 28.8.93 to 1.5.97 continuously more than 240 days. His services were discontinued on 1.5.97. That he is covered as workman under Section 2(s) of ID Act that after completing 240 days continuous service, he had acquired status of regular employee. He was offered payments every Saturday obtaining his signature from other persons. That he was working as messenger against permanent vacant post of cash peon. He should have been appointed as peon instead of continuing on daily wages, he was paid minimum wages which is not permissible as per Article 14, 16 of the constitution. His appointment by 2nd party on daily wages when permanent post was vacant is illegal. The daily wages are appointed to meet unexpected increase of work load. Such appointment on daily wages cannot be made when need is permanent which last for long period. Government cannot take advantage of unemployment prevailing in the society. The action of 2nd party terminating his services from 1.5.95 amounts to retrenchment. As he was not served one months notice, he was not paid one months pay in lieu of notice, retrenchment compensation was not paid to him. The termination of his service is in violation of Section 25-F of ID Act on such ground, workman alleged unfair labour practice on part of 2nd party that policy of hire and fire is illegal. On such ground, workman prays for his reinstatement with consequential benefits.

3. 2nd party filed Written Statement at Pages 8/1 to 8/4 opposing claim of the workman preliminary objection is raised by management that reference is not tenable as workman was never engaged against sanctioned post. Workman as engaged on daily wages. Such engagement comes to end at end of day. There is master servant relation. Workman is not covered under Section 2(s) of ID Act.

4. 2nd party denies that workman was engage against vacant post or he worked continuously more than 24 days. That as per negotiated settlement with the Bank, the casual labour is engaged for contingency is authorized. Article 14, 6 of Constitution are not violated. Claim of workman is erroneous based on assumptions and misunderstanding. 2nd party has not violated any statutory provisions. Unfair labour practice on part of 2nd party is denied. For last 10 years, Bank is sustaining loss due to low productivity and employment of manpower is stopped. 2nd party submits that reference be answered in its favour.

5. Workman filed rejoinder at Pages 9/1 to 9/2 reiterating his contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

"(i)	Whether the termination of services of Shri Mohanlal Sahu, S/o Hemlal Sahu, Ex-casual employee of Khak branch, Bhilai of UCO Bank by the management of the bank *w.e.f.* 1.5.97 is justified?	In Affirmative
(ii)	If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

7. Workman is challenging termination of his service for violation of Section 25-F (a, b, c) of ID Act. Workman filed affidavit of his evidence supporting his contentions that he was working with the Bank from 28.8.93 to 1.5.97. His services were terminated without notice. He was not paid retrenchment compensation. He completed more than 240 days continuous service. In his cross-examination, workman says he was working in 2nd party Bank from 28.8.93. He not submitted application to the Bank. He did not receive appointment letter. He was engaged as casual labour on daily wages. He was paid wages as daily wager. No attendance register was maintained. Payment sheet was also not maintained. He worked till 1.5.97. Termination order not issued to him.

8. Management's witness Shri Chabilal filed affidavit of his evidence that while working as Head cashier from July, 92 to December, 96, he says that Mohanlal was never employed as messenger, there was not vacancy of messenger. There was no notification about the vacancies. Workman was never appointed in regular vacancy. There is no relationship of master servant. Workman had not continuously worked more than 240 days. In his cross-examination, witness of management says he was working in the Bank from 28.8.93 to 1.5.97. During said period, workman was working. Witness of management has not said that workman was continuously working during above said period. Workman was doing work of pen. Workman was not given termination order, retrenchment compensation was not paid to him evidence of workman is not supported by any document. Workman has not examined any co-worked, he has not produced documentary evidence about payment of wages. The evidence of workman is in nature of self declaration. Such evidence is not sufficient to establish that workman worked continously for more than 240 days during any of the calendar year. Therefore workman is not covered under Section 25-F of ID Act. That is not entitled to benefit under Section 25-F of ID Act.

9. Advocate Vijay Tripathi relies on ratio held in

Case of Ramesh Kumar *versus* State of Haryana reported in 2010(2) SCC 543. Their Lordship dealing with Section 25-F of ID Act applicability of casual employees held in case of termination of casual employee what is required to see is whether he has completed 240 days continuous service in preceding 12 months or not.

In present case, evidence of workman discussed cannot establish his continuous working for more than 240 days during any of the calendar year. Therefore ratio held in the case cannot be applied to case at hand. For above reasons, I record my finding in Point No. 1 in Affirmative.

10. In the result, award is passed as under:—

(1) The termination of services of Shri Mohanlal Sahu, S/o Hemlal Sahu, Ex-casual employee of Khak branch, Bhilai of UCO Bank by the management of the bank *w.e.f.* 1.5.97 is proper and legal.

(2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 30 सितम्बर, 2015

का॰आ॰ 1918.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं॰ 1, धनबाद के पंचाट (संदर्भ संख्या 126/1994)को प्रकाशित करती है, जो केन्द्रीय सरकार को 30/09/2015 को प्राप्त हुआ था।

[सं॰ एल-20012/436/1993-आईआर (सीएम-1)]

एम॰ के॰ सिंह, अनुभाग अधिकारी

New Delhi, the 30th September, 2015

S.O. 1918.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 126/1994) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 30/09/2015.

[No. L-20012/436/1993-IR (CM-I)]
M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10(1) (d)(2A) of I.D. Act, 1947

Reference: No. 126/1994

Employer in relation to the management of Dugda Coal Washery of M/S. BCCL

AND

Their workmen.

PRESENT: Sri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri Ganesh Prasad, Advocate

For the Workman : None.

State : Jharkhand. Industry : Coal

AWARD

Dated 3/9/2015

By order No. L-20012/436/93/IR (CM-1) dated 13.05.1994 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

> "Whether the action of the Additional Chief Engineer (E&M) Dugda Coal Washery of M/S. BCCL, P.O-Dugda, Dist-Bokaro in denying regularization of the service of Bhagwati Sao Ex-worker with the management of M/S. BCCL is justified? if not, to what relief is the concerned workman entitled to?"

2. After receipt of the reference both parties are noticed. But appearing for certain dates, none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence pass a No disputed Award is passed. Communicate to the Ministry.

R. K. SARAN, Presiding Officer

नई दिल्ली, 30 सितम्बर, 2015

का॰आ॰ 1919.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, न॰ 1, धनबाद के पंचाट (संदर्भ संख्या 69/1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30/09/2015 को प्राप्त हुआ था।

[सं॰ एल-20012/84/1990-आईआर (सीएम-1)]
एम॰ के॰ सिंह, अनुभाग अधिकारी

New Delhi, the 30th September, 2015

S.O. **1919.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 69/1993) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 30/09/2015.

[No. L-20012/84/1990-IR (CM-I)]
M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10(1) (d)(2A) of I.D. Act, 1947

Reference : No. 69/1993

Employer in relation to the management of Kooridih Colliery of M/S. BCCL

AND

Their workmen.

PRESENT : Sri R. K. Saran Presiding Officer

Appearances:

For the Employers : None

For the workman : None.

State : Jharkhand. Industry:—Coal

AWARD

Dated 2/9/2015

By order No. L-20012/84/90/IR (CM-1) dated 11.02.1993 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Kooridih Colliery in Govindpur Area of M/S. BCCL, in denying correction of date of Birth of Manindra Nath Munshi from 18.04.1932 to 18.04.1942 is justified? If not, to what relief the workman is entitled to?"

2. After receipt of the reference both parties are noticed. But appearing for certain dates, none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence pass a No disputed Award is passed. Communicate to the Ministry.

R.K. SARAN, Presiding Officer

नई दिल्ली, 30 सितम्बर, 2015

का॰आ॰ 1920.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण/श्रम न्यायालय, न॰ 1, धनबाद के पंचाट (संदर्भ संख्या 221/2000)को प्रकाशित करती है, जो केन्द्रीय सरकार को 30/09/2015 को प्राप्त हुआ था।

[सं॰ एल-20012/253/2000-आईआर (सी-1)]

एम॰ के॰ सिंह, अनुभाग अधिकारी

New Delhi, the 30th September, 2015

S.O. **1920.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 221/2000) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 30/09/2015.

[No. L- 20012/253/2000-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S. 10(1) (d)(2A) of I.D. Act, 1947

Reference: No. 221/2000

Employer in relation to the management of Kusunda Area, M/S. BCCL

AND

Their workmen.

PRESENT : Sri R.K. Saran Presiding Officer

Appearances:

For the Employers : Sri D.K. Verma, Advocate.

For the Workman : Sri N.M. Kumar, Advocate

State : Jharkhand. Industry : Coal

AWARD

Dated 26/8/2015

By order No. L-20012/253/2000/IR (C-1) dated 24/06/2000, the Central Govt. in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether denial of employment to Sri Pradeep Thakur dependant Son of Sri Baleshwar Prasad Thakur, on the ground that he was unfit for under ground work, by the management of Kusunda Area of M/s. BCCL and desiring application for employment from second son of the deceased employee is justified? If not, what direction into the matter are necessary?"

2. The case is received from the Ministry of Labour on 07.08.2000. After receipt of reference, both parties are noticed. The workman files their written statement on 06.02.2001. And the management files their written statement-cum-rejoinder on 22.04.2002. Two witnesses examined on behalf of the workman and document of workman marked as W-1 to W-7.

3. The case of the workman is that Sri Balashwer Prasad was employed at Industry Colliery of M/S. BCCL on the post of Line Mazdoor. Who was declared medically unfit for his duties in March 1991. By the Apex Medical Board under clause of NCWA. The eldest son Sri Pradeep Thakur applied for his employment and the management issued letter of employment for job PR UG Minor loader subject to his physical fitness. He was directed to report to the Lodna Area for his duties. Thereafter the management *vide* letter dated 12.12.95, informed to Sri Baleshwar Prasad, that his son Pradeep Thakur is medically unfit for surface work.

4. The case of the management that the provision in NCWA for giving employment on compassionate ground was only for the purpose of providing financial assistance to the family of the employee, who has been declared medically unfit. This provision does not create legal right of any particular person.

5. This is the case of dependant employment. The concerned workman Sri Pradeep was issued appointment letter dated 23.4.1992 designated as PR UG Miner Loader in place of medically unfit father Sri Baleshwar Thakur.

6. As per letter dated 12/12/95 marked as W-1, it appears that the concerned workman Sri Pradeep Thakur was medically unfit on the surface job, and Sri Baleshwar Thakur was told that his case will be considered by competent authority for employment to another son in the company.

7. In cross-examination of Sri Sadhu Sharan Prasad (WW-1) Ex-General Secretary of the union, Sri Pradeep Thakur was appointed for underground job. He was declared Unfit by medical examination. Management offiered employment to his next son. But he was not given offer for employment.

8. But in the Written statement of the management in para 10 it has been pleaded by the General Manager, that Sri Pradeep Thakur was examined by the Area Medical Board and the Area Medical Board declared him medically fit for surface job on 28/03/1995 and thereafter the Head Qr. Informed that the designation of Sri Pradeep Thakur has been changed for Miner/Loader to General Mazdoor on the surface. But due to want of vacancy in the surface the Area Management could not able to provide him employment.

9. The management issued a letter dated 7/7/95 marked as W-7 in which the workman ordered to change from PR UG Miner Loader to general mazdoor on surface in Cat-1 with his posting at Kusunda Area.

10. The management is ready to give job to the dependant of the workman, who would apply for job and the same be considered by the management sympathetically. But as per written statement of the management it is seen, he was fit for surface job. Therefore the workman be given job at one on surface.

11. Considering the facts and circumstances of this case. I hold that denial of employment to Sri Pradeep Thakur dependant son of Sri Baleshwar Prasad Thakur, on the ground that he was unfit for under ground work, by the management of Kusunda Area of M/s. BCCL and desiring application for employment from second son of the deceased employee is not justified. Hence Sri Pradeep Thakur be given job by the management at once There is no necessity either he or any one will apply for job.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 30 सितम्बर, 2015

का.आ. 1921.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार गल्फ एअर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 95/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30/09/2015 प्राप्त हुआ था।

[सं॰ एल-11012/42/2014-आईआर (सीएम-1)]
एम॰ के॰ सिंह, अनुभाग अधिकारी

New Delhi, the 30th September, 2015

S.O. 1921.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 95/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of M/s. Gulf Air and their workmen, received by the Central Government on 30/09/2015.

[No. L-11012/42/2014-IR (CM-1)]
M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

CHENNAI

Tuesday, the 15th September, 2015

PRESENT : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 95/2014

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Gulf Air and their workman)

BETWEEN

Sri N. Sivaraman : 1st Party/Petitioner

AND

The Country Manager : 2nd Party/Respondent
Gulf Air
Maker Chamber-V, Ground Floor
Nariman Point
Mumbai-400021

Appearance:

For the 1st Party/Petitioner : M/s. Row & Reddy, V. Stalin, Advocates

For the 2nd Party/Respondent : M/s. Gupta & Ravi, Advocates

AWARD

The Central Government, Ministry of Labour & Employment, *vide* its Order No. L-11012/42/2014-IR (CM-I) dated 15.10.2014 referred the following Industrail Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the Management of M/s Gulf Air regarding termination of the service of the petitioner Sri N. Sivaraman is legal and justified? To what relief the workman is entitled?"

2. On receipt of Industrail Dispute this Tribunal has numbered it as ID 95/2014 and issued notices to both sides. Both sides entered appearance through their counsel and filed their claim and counter statement respectively. The petitioner has filed rejoinder in answer to the Counter Statement.

3. The averments in the Claim Statement filed by the petitioner in brief are as below:

The petitioner joined the service of the Respondent as Station Security Officer-III by order dated 22.08.2005. His service was confirmed. The petitioner had been discharing his duty sincerely and honestly. At the time of termination he was Station Security Officer. The petitioner was suddenly terminated from service by order dated 21.03.2014. The reason for termination was stated as the order of Bureau of Civil Aviation Security (BCAS) of Govt. of India. However, the order does not state that the existing security personnel have to be terminated. The intention of the Respondent is to outsource the security work to private contractors and deprive the permanent employees of their job. The Respondent is having Offices all over India. The security personnel employed by the Respondent in Bombay are not terminated. Those at Cochin were terminated only two months later to the termination of the petitioner. The posts at different centres are transferable. The Respondent has not followed Section-25G of Industrail Disputes Act while retrenching the petitioner. The Respondent could have absorbed the petitioner in some other department if they feared any penal action from BCAS. The action of the Respondent in termination the petitioner is illegal, arbitrary and without jurisdiction. The petitioner has raised the dispute in the above background. An order may be passed holding that the action of the Respondent in terminating the service of the petitioner is illegal and also directing the Respondent to reinstate the petitoner with back wages, continuity of service and other attendant benefits.

4. The Respondent has filed Counter Statement contending as below:

The dispute is not maintainable as the petitioner was not a workman as defined under Section-2(s) of the Industrail Disputes Act. The petitioner was Station Security Officer of the Respondent at Chennai Airport at the time of termination and was performing duties predominantly administrative and supervisory in nature, in this capacity. It is incorrect to state that the Respondent has terminated the service of the petitioner in order to outsource security work to private contractors. The BCAS has issued comprehensive guidlines listing out the guidelines for performing security functions to be carried out by aircraft operators by order no. 3/2009. By the said order 13 activities pertaining to aircraft operations were treated as Aircraft Operators Aviation Security Functions. These functions were not allowed to be undertaken by ground handling agency. These have to be carried out by the concerned airlines security personnel who possess competency required to perform the duties and appropriately trained and certified according to the requirements of the approved security programme of the respective aircraft operator and the national civil aviation programme of India. The inline screening of hold baggage to be transported by aircraft operator from the airports in India are to be carried out by trained and BCAS certified screeners of respective airport operator or NACIL at airports having inline baggage airport system. As far as foreign airlines like the Respondent are concerned they may enter into agreement with Indian Air Carriers having international operations from that airport only after specific approval from the BCAS. The purport of such clause in the order is that foreign airlines like the Respondent are prohibited from engaging their own personnel for carrying out any security related functions in Airports. Even though foreign airlines are not allowed to undertake self handling of security functions, they are required to appoint Chief Security Officer of India and a Security Coordinator for each station of operation. These position holders must obtain required BCAS training. Reference to foreign airlines in order 3/2014 of AVSEC relates to only these positions approved in security programmes of all the foreign airlines operating from Indian Airports. Consequent to order of 3/2009 the Respondent is not permitted to do self handling of security functions at Airports. It is not corrrect to state that the persons working in Cochin sector are junior to the petitioner. All security personnel engaged in self handling of security functions were terminated as the said functions cannot be performed by a foreign operator. As far as Mumbai is concerned the security personnel employed at Mumbai Airport had raised a dispute and the Respondent had entered into a settlement with a Union representing the said employees pursuant to which they were re-deployed in other ground handling operations where there were vacancies. No common seniority list is maintained for employees of the Respondent in all the Airports of India. The allegation that the Respondent has violated Section-25(g) of the ID Act is not correct. No vacancies are available at Chennai Airport where the petitioner could be absorbed. The petitioner is not entitled to any relief.

5. In the reply statement the petitioner has reiterated his case in the Claim Statement and denied the contentions in the Counter Statement.

6. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ext. W1 to Ext. W11 and Ext. M1 to Ext. M14.

7. **The points for consideration are:**

(i) Whether the action of the Respondent in termination of the petitioner from service is legal and justified?

(ii) To what relief, if any, to which the petitioner is entitled?

The Points

8. There is no dispute on the facts of the case. The petitioner who had joined the service of the Respondent as Station Security Officer-III on 22.08.2005 was terminated from service *vide* order dated 21.03.2014 while he was working as Station Security Officer.

9. The Respondent has justified the termination stating the BCAS under the Ministry of Civil Aviation, Government of India had issued an order by which foreign airlines are prevented from doing aircraft operators aviation security functions. They were directed to enter into agreement with agencies who are carrying out such functions.The stand of the Respondent is that because of this order the post of Security Officer of the Respondent had become redundant and they were forced to terminate the service of the petitioner alongwith another who is working in the same position. The case of the petitioner is that termination is not called for even on account of the order of BCAS. It is contended by the petitioner that the order does not give a direction to terminate the existing employees working in the position of Security Officer and it is only a matter of giving training through one of the approved training institute. It is contended on behalf of the petitioner that the petitioner is entitled to be reinstated in service.

10. A technical contention is seen raised by the Respondent in the Counter Statement that the petitioner is not a workman as defined under Section-2(s) of the Industrial Disputes Act as he was working as Station Security Officer at the time of termination. However, this contention is not seen pursued by the Respondent. Trial has proceeded on the assumption that the petitioner is a workman.

11. Another contention raised in the Counter Statement is that petitioner has received the notice pay and retrenchment compensation without any protest and so he is not entitled to raise the dispute. This contention also is not seen pursued. The counsel for the petitioner has referred to the decision of the Apex Court in WORKMAN OF SUBONG TEA ESTATE VS. SUBONG TEA ESTATE AND ANOTHER reported in 1964 1 LLJ 333 where it was held that the acceptance of retrenchment compensation by the workman could not operate as a bar so as to prevent him from challenging the validity of the retrenchment itself. So the fact that the petitioner has accepted the retrenchement compensation does not prevent him from raising the dispute.

12. The counsel for the petitioner has argued that the retrenchement is bad in law since notice under Section-9A of ID Act has not been given to the petitioner. According to the counsel for the Respondent such a contention is now not available to the petitioner at all in the absence of any plea in this respect. It is also his stand that in any case notice under Section-9A of the ID Act is not required in a case of retrenchment.

13. The counsel for the petitioner has referred to certain legal pronouncements in support of his contention that notice under Section-9A should have been given to the petitioner in the absence of which retrenchment is not valid as per law. He has referred to the decision in LIC OF INDIA *Vs.* D.J. BAHADUR AND OTHERS reported in 1981 1 SCC 315 wherein it has been held that when change is being made in the service conditions of workman notice should be given. Reference is also made to the decision in the WORKMEN OF FOOD CORPORATION OF INDIA *VS.* FOOD CORPORATION OF INDIA reported in 1985 2 LLJ 4 where it was held that when an attempt is made to bring about cessation of contract of employment between the workman and the management and a fresh contract between the workman and the contractor was intended also notice under Section-9A of the Act is required. Another decision relied upon by counsel for the petitioner is LOKMAT NEWSPAPERS PVT. LTD. *VS.* SHANKAR PRASAD reported in 1999 (6) SCC 275. It was a case where the management introduced prototype composing machines resulting in the retrenchment of certain workman. It was found that the installation of the machine should have been preceded by a notice under Section-9A to the workers since the installation of the machines resulted in retrenchment.

14. The counsel for the Respondent has argued that the termination of the petitioner did not require a notice under Section-9A of the Act. He has pointed out that retrenchment of an employee is not an item in the IV Schedule of the Industrial Disputes Act. The IVth Schedule describes conditions of service for change of which notice is to be given under Section-9A of the Act. The counsel for the Respondent has referred to the decision in ROBERT D' SOUZA *VS* EXECUTIVE ENGINEER, SOUTHERN RAILWAY AND ANOTHER reported in 1982 1 SCC 645 in this respect. The service of the workman involved in the case was deemed to have been terminated from the date on which he absented himself from duty. A contention was advanced that notice under Section-9A should have been given before termination. It was held that in order to attract Section-9A the employer must be desirous of effecting a change in the conditions of service in respect of any matter specified in the IV Schedule of the Act. The counsel has referred to the decision of the Madras High Court in ASOKAN *VS.* PRESIDING OFFICER, LABOUR COURT, COIMBATORE AND ANOTHER reportd in 2009 4 LLN 582 also in this respect. Here it was held that retrenchment is not mentioned in the IVth Schedule of the Act and so Section-9A of the Act or its proviso is not applicable to a case of retrenchment.

15. The counsel for the Respondent has referred to the decision in WORKMAN OF THE FOOD CORPORATION OF INDIA *VS.* FOOD CORPORATION OF INDIA reported in 1985 2 SCC 136 also in this respect.

In the Food Corporation of India the system prevalent was direct payment to the workmen. It was held that on introduction of system of direct payment by abolishing contract labour system workman acquired status of direct workman of the employer and unilateral discontinuance of direct payment system without workman's consent and reintroduction of contract labour system treating the workman as workman of the contractor would amount to termination of their services which in the absence of compliance with law in force will be illegal and void. It cannot be done without giving notice to the workman under Section-9A of the Act, it was held. This was referred to by the counsel to point out that only in the case of change in the service conditions notice under Section-9A is required. The counsel has referred to the decision of the Bombay High Court in ARVIND ANAND GAIKWAD *VS.* UNI ABEX ALLOY PVT. LTD. reported in 1994 III LLJ 684 also where it was held that notice under Section-9A is not called for because the employer had not re-organized business but has closed down a particular section in view ot the restriction in import. The decision of the Apex Court in ROBERT D SOUZA's case referred to earlier was relied upon to enter the finding.

16. On going through the decisions relied upon by either side, it could be seen that only in cases where there is to be a change in the conditions of service of the workman notice need by giving under Section-9A of the Act. The cases referred to by the petitioner's counsel are all those wherein change was effected in the service conditions of the workman. None of them are cases where workmen were retrenched. In the case of retrenchment the employer is expected to comply with the conditions prescribed under Section-25F of the Act only. An attempt has been made by the counsel for the petitioner to make out that the change was being effected by the Respondent. According to the counsel by terminating the service of the petitioner, the Respondent has been intending to entrust the security work to outside agencies which according to him would come under Item-10 of the IVth Schedule of the Act. As per this item in case of rationalization standardization or improvement of plant or technique which is likely to lead to retrenchment of workmen notice under Section-9A is required. It has been pointed out by the counsel for the Respondent that the Respondent has not been trying any of these in the establishment. It was pointed out by him that no change of any kind was effected by the Respondent. Rationalization of an establishment is a re-organization or organization in order to improve its efficiency. In the present case the Respondent has not done anything to improve the efficiency of the establishment resulting in retrenchment. There was no standardization or improvement also. The Respondent had to give up the job of handling of security functions in view of the restriction imposed by BCAS by Ext. M3 order. It is not on the basis of any steps taken by the Respondent itself to effect some change coming under Item-10 of the Schedule of the Act. It was only because the Respondent was constrained to, it had to stop handling of security functions by itself. Of course, it had been argued by the counsel for the petitioner that in fact there is no such prohibition at all preventing the petitioner and the other Scurity Officer from handling the security functions of the Respondent. I do not think there is any merit in the contention advanced on behald of the petitioner. I will be referring to this aspect in detail later.

17. In any case as pointed out by the counsel for the Respondent the Schedule of Reference does not contain the question of violations of Section-9A of the Act and there is no such plea for the petitioner also. As per the Schedule of Reference, the dispute is regarding termination of service of the petitioner only. So the only question to be considered is whether the termination is valid. The petitioner has not raised a contention in the Claim Statement that the termination is not valid in law as it is doen in violation of Section-9A of the Act. The counsel for the Respondent has referred to the decision in WORKMEN AND OTHERS *VS*. HINDUSTAN LEVER LTD. reported in AIR 1984 SC 516 where the Supreme Court has held that the Tribunal cannot travel beyond the pleadings and arrogate to itself the power to raise issues which the parties to the reference are precluded or prohibited from raising. In the above case the Industrial Tribunal had hedl that the employee is not a workman though there was agreement between the employer and the union to the effect that he is a workman and the question was never raised by the parties. The counsel has also referred to a decision of the Delhi High Court in MANAGEMENT OF JOR BAGH *VS.* WORKMAN reported in 1997 III LLJ 191 where it was held that it was not permissible for the Labour Court to have gone to the extent of making an adjudication upon the question that whether the dispute fell under Item-11 of Schedule-IV for which notice under Section 9A of the Act was required to be served upon the workman in advance before taking any action for retrenchment. On the reference of retrenchment the Labour Court had to confine itself on the question whether the same was legal and justified, it was held. So the issue validity of notice under Section -9A does not arise for consideration at all, in the present dispute.

18. Still another contention on behalf of the petitioner is that the petitioner was discriminated terminating him from service. According to the petitioner the Respondent is having offices at Delhi, Bombay, Cochin Trivandum and Madras. All the employees working at these stations are working in a single entity i.e. Gulf Air, which is the Respondent. However, Security personnel employed by the Respondent in Bombay were not terminated whereas the petitioner was terminated. This according to the petitioner is discrimination on the part of the Respondent. This allegation of discrimination is denied by the Respondent. According to the Respondent, security

personnel employed at Bombay Airport raised Industrial Dispute even prior to any decision on their termination and during the conciliation proceedings Respondent entered into a settlement with the union representing the said employees and it its pursuant to this the security personnel at Bombay were re-deployed in other ground handling operations where there were vacancies. It is further stated by the Respondent that the question of comparing security personnel employed in other airports does not arise as no common seniority list is maintained.

19. The counsel for the petitioner has referred to the decision in THE MANAGER, GOVERNMENT BRANCH PRESS AND ANOTHER *VS*. D.B. BELIAPPA reported in 1979 1 SCC 477 to fortify his argument on discrimination. It is a case where the concerned workman alone was dismissed while others in his group had been retained and were allowed to continue in service. It was held that no special circumstance or reason has been disclosed which would justify discriminatory treatment to the concerned workman as a class apart from his juniors who have been retained in service. In the circumstance, the direction to reinstate the petitioner in service has been upheld.

20. In the present case, is there any discrimination so far as the petitioner is concerned? It is the specific case of the Respondent that there is no common seniority list for the security personnel working for the Respondent at different places and persons working in each centres were treated separately. It is apparent from the evidence of the petitioner itself that there was no such common seniority list of treatment of security personnel as a class for all the centres together. The petitioner has stated in his cross-examination that after his appointment in 1984 he had continued to work in Chennai only and had no occasion to work anywhere. MW1 has stated that no common seniority list is maintained. The petitioner has not proved that all the security personnel were treated together and they were amenable for transfer from one place to another. Any incident of transfer among the security personnel from one centre to another has not been brought to notice also. So the manner in which the security personnel at Mumbai were treated could not be a reason to consider the treatment of the petitioner as discrimination. The circumstance under which the security personnel at Bombay were retained is stated in the Counter Statement as well as in the evidence of MW1. It is apparent from the contention of the petitioner itself that the security personnel at Bombay also were not allowed to continue in service as security personnel but they were re-deployed in ground handling activities. According to the Respondent, at Chennai only two security personnel are available and the number of employees are limited. There was no vacancy to employ them in other areas. So the case of discrimination put forth by the petitioner also could not be accepted.

21. Another contention raised on behalf of the petitioner is that the persons working in Cochin under the Respondent as security personnel are junior to the petitioner but they were terminated only two months later to the petitioner and therefore the Respondent has not followed Section-25G of the Industrial Disputes Act. For one thing, it is not proved by the petitioner that he security personnel at Cochin are junior to the petitioner. Again since there is no common seniority list there could not be violation of Section-25G of the industrial Disputes Act.

22. It is pointed out by the Respondent that it was because of the enevitable contingency that the petitioner had to be terminated from service. Ext.M3 is the order of BCAS dated 21.08.2009 alongwith corrigendum dated 03.02.2014. As per the order the Bureau has referred to 13 activities pertaining to aircraft operations to be treated as Aircraft Operators Aviation Security Functions. As per Clause-4 of this, foreign airlines are to enter into agreement with Indian Air Carriers having international operation from the respective airport only after specific approval from the Bureau. By the corrigendum of 2014 some change was made in the clause and foreign airlines were allowed to enter into agreement with Indian Air Carriers having operation from the airport and the concerned foreign airline is to inform the Bureau regarding the arrangement. Even after the order of 2008 preventing foreign airlines from directly handling security operations the Respondent continued to handle the security functions by itself with the petitioner and another as employees. It seems the Bureau has been taking steps against this. The Respondent has produced several communications from the BCAS in this respect. Ext.M5 is one such communication issued to the Chief Security Officer, British Airways Ltd. This was in response to the letter by the British Airways for approval of the aircraft operator's security program. This states that as per the order of 2009 foreign airlines are to enter into contract with Indian Air Carriers for security functions and the order does not authorize any foreign airlines to self-handle the security functions. Ext.M6 is a fax message from the BCAS issued in 2012 stating that it has come to the notice of the Bureau that foreign airlines are allowed to do self-handling at airports violating the order of 2009 and action is to be taken in the light of the order. Ext. M7 is also regarding the implementation of the order. Ext. M8 also is a communication issued to the Airport Directors stating that the practice of self-handling at airpots in violation of the order of 2009 should be stopped with immediate effect. The Directors are instructed to furnish the names of those foreign airlines which are self-handling security functions. Ext.M10 is a letter from the BCAS to the Respondent returning the security program submitted by the Respondent. This reiterates that as per the order of 2009 foreign airlines are not allowed to do self-handling of the security functions. It is further stated that the foreign airlines may enter into contract with Indian Air Carriers having international operations from the Airport.

23. MW1 has stated that it is in view of the order of the BCAS that the petitioner had to be terminated from service. It is stated by MW1 in the affidavit that even after the order of 2009 the petitioner was not immediately terminated from service but the matter was dragged on for a long time. It is pointed out by the counsel for the Respondent that it shows the bonafides of the Respondent and the attempt of the Respondent to retain the petitioner in service in spite of the order. It was only when action was recommended the petitioner had been terminated. This stand of the Respondent seems to be correct. Even after the order of the Bureau, the petitioner had continued in service for quite a number of years.

24. The petitioner has stated in the Claim Statement that as per the corrigendum of 2014 the organizations which have not established their own training institute shall deploy their security staff to carry out allocated security functions for their respective organizations only after they are trained in one of the BCAS approved training institution and certified by the BCAS. This part of the order was quoted by the petitioner to state that the existing staff need not be disengaged but can be retained. It is pointed out on behalf of the Respondent that even though foreign airlines are nto allowed to handle security functions by themselves they are required to appoint Chief Security Officer and a Security Coordinator for each station of operation and these position holders must obtain the required training. The reference to training in the order of 2014 is only regarding Chief security Officer and Security Coordinator, it is pointed out. The petitioner had made three attempts to clear the BCAS Certification Course but had not succeeded, as stated by MW1. So he would not fit in with the requirements of the BCAS, in any case.

25. It is pointed out by the counsel for the Respondent that the orders of BCAS are not challenged and they are binding on the petitioner. The counsel has referred to the decision of the Madras High Court in INDIAN COMMERCIAL PILOTS ASSOCIATION *VS*. UNION OF INDIA reported in 2006 4 MLJ 289 where it was held that a circular issued by the Central Government under the Aircraft Rules is not *ultra-vires.* So the order of the BCAS is binding on the petitioner as well as on the Respondent. It was only because of the order the Respondent had to terminate the service of the petitioner. In this respect the counsel for the Respondent has referred to the decision WORKMAN OF SUBONG TEA ESTATE *VS*. SUBONG TEA ESTATE AND ANOTHER (referred to earlier) where it was held that the management can retrench its employees but for proper reasons and it is for the industrial adjudicator to consider whethere the retrenchment was justified for proper reasons. It cannot be said that the retrenchment of the petitioner is without justification. Though, not on account of any fault of the petitioner the retrenchment was necessitated because of inevitability of the circumstances.

26. The petitioner has stated that if the Respondent feared penal action from the BCAS it could have absorbed the petitioner in another department. It is pointed out that this is what was done in the case of security personnel in Bombay. The stand of the Respondent is that no vacancy was available in any of the positions. This implies that if there is any vacancy in which the petitioner could be fitted with his qualification and experience he would have been re-deployed to that position. This can be done by the Respondent even now. Section-25H of the Industrial Disputes Act states that where any workmen are retrenched and the employer proposes to take into his employ any person he can given an opportunity to the retrenched workman to offer themselves for reemployment and such workmen who offer themselves for re-employment shall have preference over other persons. The petitioner has offered himself to be employed in the Respondent establishment, even at centres other than Chennai. In case any vacancy suitable in accordance with the qualification and experience of the petitioner arises the Respondent can re-employ the petitioner in that vacancy. The petitioner was terminated by order dated 21.03.2014. More than a year has elapsed after this. The Respondent shall consider re-employment of the petitioner without delay.

Accordingly an award is passed as follows:

The Respondent is directed to give-reemployment to the petitioner in vacancy to which he will fit in one on the basis of his qualification and experience. The reference is answered accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri N. Sivaraman

For the 2nd Party/Management : MW1, Capt. Surinder Khajuria

Documents Marked:

On the petitioner's side

Ex. No.	Date	Description
Ext.W1	21.06.2009	Bureau of Civil Aviation Security Order No. 03/2009
Ext.W2	25.08.1994	Confirmation Order issued to petitioner
Ext.W3	21.03.2014	Termination order issued to petitioner
Ext.W4	03.04.2014	Dispute raised by the petitioner before the Assistant Labour Commissioner (Central)
Ext.W5	07.05.2014	Certificate issued by the Respondent
Ext.W6	16.06.2014	Reply filed by the Respondent before ALC with annexure

Ext.W7	18.06.2014	Bureau of Civil Aviation Security Order No. 03/2014
Ext.W8	01.07.2014	Reply filed by the petitioner before ALC
Ext.W9	27.08.2014	Reply filed by the Respondent before ALC Identity Card, Certificates
Ext.W10		-
Ext.W11	10.12.2014	Section 12(3) settlement between Respondent and the Gulf Air Employees Association

On the Management's side

Ex.No.	Date	Description
Ext.M1	27.03.2001	AVSEC Order No. 3 of 2001
Ext.M2	28.08.2006	AVSEC Order No. 16 of 2006
Ext.M3	21.08.2009	AVSEC Order No. 3 of 2009 with corrigendum dated 03.02.2014
Ext.M4	2011-2012	Basic AVSEC held at RDCOS Chennai
Ext.M5	30.04.2012	Approval of the Aircraft Operating Security Programme of M/s British Airways Ltd., approved by BCAS
Ext.M6	13.07.2012	Fax message from BCAS to all RDCOS, BCAS regarding implementation of AVSEC Order No. 3 of 2009
Ext.M7	03.08.2012	Communication from BCAS to Station Manager, Gulf Air, Mumbai in regard to implementation of AVSEC order No. 3/2009
Ext.M8	07.08.2012	BCAS Notice to all the Airport Directors, AAI, CIAC and AOC in regard to implementation of AVSEC order 3/2009
Ext.M9	13.08.2012	Approval of the Aircraft Operators Security Programme of M/s Sri Lankan Airline by BCAS
Ext.M10	23.08.2012	Notice sent by BCAS to Gulf Air
Ext.M11	13.05.2013	Notice sent by BCAS to Gulf Airlines Manager (Security), Chennai
Ext.M12	14.10.2013	Notice sent by BCAS to the Manager, Gulf Air, Mumbai
Ext.M13	22.10.2013	Notice sent by BCAS to Station Manager, Gulf Air
Ext.M14	09.01.2014	Notice sent by BCAS to Manager (Security) Gulf Air Chennai

नई दिल्ली, 30 सितम्बर, 2015

का॰आ॰ 1922.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार गल्फ एअर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 94/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30/09/2015 प्राप्त हुआ था।

[सं. एल -11012/41/2014-आई आर (सीएम-I)]

एम॰ के॰ सिंह, अनुभाग अधिकारी

New Delhi, the 30th September, 2015

S.O. 1922.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 94/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of M/s. Gulf Air and their workmen, received by the Central Government on 30/09/2015.

[No. L-11012/41/2014-IR-(CM-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Tuesday, the 15th September, 2015

PRESENT : K. P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 94/2014

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Gulf Air and their workman)

BETWEEN

Sri A.G. Ravikumar : 1st Party/Petitioner

AND

The Country Manager : 2nd Party/Respondent

Gulf Air

Maker Chamber-V, Ground Floor

Nariman Point

Mumbai

Appearance:

For the 1st Party/Petitioner : M/s. Row & Reddy, V. Stalin, Advocates

For the 2nd Party/Respondent : M/s Gupta & Ravi, Advocates

AWARD

The Central Government, Ministry of Labour & Employment, *vide* its Order No. L-11012/41/2014-IR (CM-I) dated 15.10.2014 referred the following Industrail Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the Management of M/s. Gulf Air regarding termination of the service of the petitioner Shri A.G. Ravi Kumar is legal and justified? to what relief the workman is entitled?"

2. On receipt of Industrail Dispute this Tribunal has numbered it as ID 94/2014 and issued notices to both sides. Both sides entered appearance through their counsel and filed their claim and counter statement respectively. The petitioner has filed rejoinder in answer to the Counter Statement.

3. The averments in the Claim Statement filed by the petitioner in brief are as below:

The petitioner joined the service of the Respondent as Acting Station Security Officer by order dated 17.05.1994. His service was confirmed. on 25.8.1994. The petitioner had been discharing his duty sincerely and honestly. At the time of termination he was Station Security Officer-II. The petitioner was suddenly terminated from service by order dated 21.03.2014. The reason for termination was stated as the order of Bureau of Civil Aviation Security (BCAS) of Govt. of India. However, the order does not state that the existing security personnel have to be terminated. The intention of the Respondent is to outsource the security work to private contractors and deprive the permanent employees of their job. The Respondent is having Offices all over India. The security personnel employed by the Respondent in Bombay are not terminated. Those at Cochin were terminated only two months later to the termination of the petitioner. The posts at different centres are transferable. The Respondent has not followed Section-25G of Industrail Disputes Act while retrenching the petitioner. The Respondent could have absorbed the petitioner in some other department if they feared any penal action from Bureau of Civil Aviation Security. The action of the Respondent in termination the petitioner is illegal, arbitrary and without jurisdiction. The petitioner has raised the dispute in the above background. An order may be passed holding that the action of the Respondent in terminating the service of the petitioner is illegal and also directing the Respondent to reinstate the petitoner with back wages, continuity of service and other attendant benefits.

4. The Respondent has filed Counter Statement contending as below:

The dispute is not maintainable as the petitioner was not a workman as defined under Section-2(s) of the Industrial Disputes Act. The petitioner was Station Security Officer of the Respondent at Chennai Airport at the time of termination and was performing duties predominantly administrative and supervisory in nature, in this capacity. It is incorrect to state that the Respondent has terminated the service of the petitioner in order to outsource security work to private contractors. The BCAS has issued comprehensive guidelines listing out the guidelines for performing security functions to be carried out by aircraft operators by order No. 3/2009. By the said order 13 activities pertaining to aircraft operations were treated as Aircraft Operators Aviation Security Functions. These functions were not allowed to be undertaken by ground handling agency. These have to be carried out by the concerned airlines security personnel who possess competency required to perform the duties and appropriately trained and certified according to the requirements of the approved security programme of the respective aircraft operator and the national civil aviation programme of India. The inline screening of hold baggage to be transported by aircraft operator from the airports in India are to be carried out by trained and BCAS certified screeners of respective airport operator or National Aviation Corporation of India Ltd. at airports having inline baggage airport system. As far as foreign airlines like the Respondent are concerned they may enter into agreement with Indian Air Carriers having international operations from that airport only after specific approval from the BCAS. The purport of such clause in the order is that foreign airlines like the Respondent are prohibited from engaging their own personnel for carrying out any security related functions in Airports. Even though foreign airlines are not allowed to undertake self handling of security functions, they are required to appoint Chief Security Officer-India and a Security Coordinator for each station of operation. These position holders must obtain required BCAS training. Reference to foreign airlines in order 3/2014 of AVSEC relates to only these positions approved in security programmes of all the foreign airlines operating from Indian Airports. Consequent to order of 3/2009 the Respondent is not permitted to do self handling of security functions at Airports. It is not corrrect to state that the persons working in Cochin sector are junior to the petitioner. All security personnel engaged in self handling of security functions were terminated as the said functions cannot be performed by a foreign operator. As far as Mumbai is concerned the security personnel employed at Mumbai Airport

had raised a dispute and the Respondent had entered into a settlement with a Union representing the said employees pursuant to which they were re-deployed in other ground handling operations where there were vacancies. No common seniority list is maintained for employees of the Respondent in all the Airports of India. The allegation that the Respondent has violated Section-25(g) of the ID Act is not correct. No vacancies are available at Chennai Airport where the petitioner could be absorbed. The petitioner is not entitled to any relief.

5. In the reply statement the petitioner has reiterated his case in the Claim Statement and denied the contentions in the Counter Statement.

6. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ext. W1 to Ext. W11 and Ext. M1 to Ext. M13.

7. **The points for consideration are:**

(i) Whether the action of the Respondent in termination of the petitioner from service is legal and justified?

(ii) To what relief, if any, to which the petitioner is entitled?

The Points

8. There is no dispute on the facts of the case. The petitioner who had joined the service of the Respondent as Station Security Officer in the year 1994 was terminated from service *vide* order dated 21.03.2014 while he was working as Station Security Officer.

9. The Respondent has justified the termination stating the BCAS under the Ministry of Civil Aviation, Government of India had issued an order by which foreign airlines are prevented from doing aircraft operators aviation security functions. They were directed to enter into agreement with agencies who are carrying out such functions. The stand of the Respondent is that because of this order the post of Security Officer of the Respondent had become redundant and they were forced to terminate the service of the petitioner alongwith another who is working in the same position. The case of the petitioner is that termination is not called for even on account of the order of BCAS. It is contended by the petitioner that the order does not give a direction to terminate the existing employees working in the position of Security Officer and it is only a matter of giving training through one of the approved training institute. It is contended on behalf of the petitioner that the petitioner is entitled to be reinstated in service.

10. A technical contention is seen raised by the Respondent in the Counter Statement that the petitioner is not a workman as defined under Section-2(s) of the Industrial Disputes Act as he was working as Station Security Officer at the time of termination. However, this contention is not seen pursued by the Respondent. Trial has proceeded on the assumption that the petitioner is a workman.

11. Another contention raised in the Counter Statement is that petitioner has received the notice pay and retrenchment compensation without any protest and so he is not entitled to raise the dispute. This contention also is not seen pursued. The counsel for the petitioner has referred to the decision of the Apex Court in Workman of Subong Tea Estate *vs.* Subong Tea Estate and another reported in 1964 1 LLJ 333 where it was held that the acceptance of retrenchment compensation by the workman could not operate as a bar so as to prevent him from challenging the validity of the retrenchment itself. So the fact that the petitioner has accepted the retrenchement compensation does not prevent him from raising the dispute.

12. The counsel for the petitioner has argued that the retrenchement is bad in law since notice under Section-9A of ID Act has not been given to the petitioner. According to the counsel for the Respondent such a contention is now not available to the petitioner at all in the absence of any plea in this respect. It is also his stand that in any case notice under Section-9A of the ID Act is not required in a case of retrenchment.

13. The counsel for the petitioner has referred to certain legal pronouncements in support of his contention that notice under Section-9A should have been given to the petitioner in the absence of which retrenchment is not valid as per law. He has referred to the decision in LIC of India *vs.* D.J. Bahadur and Others reported in 1981 1 SCC 315 wherein it has been held that when change is being made in the service conditions of workman notice should be given. Reference is also made to the decision in the Workmen of Food Corporation of India *Vs.* Food Corporation of India reported in 1985 2 LLJ 4 where it was held that when an attempt is made to bring about cessation of contract of employment between the workman and the management and a fresh contract between the workman and the contractor was intended also notice under Section-9A of the Act is required. Another decision relied upon by counsel for the petitioner is Lokmat Newspapers Pvt. Ltd. *vs.* Shankar Prasad reported in 1999 (6) SCC 275. It was a case where the management introduced prototype composing machines resulting in the retrenchment of certain workman. It was found that the installation of the machine should have been preceded by a notice under Section-9A to the workers since the installation of the machines resulted in retrenchment.

14. The counsel for the Respondent has argued that the termination of the petitioner did not require a notice under Section-9A of the Act. He has pointed out that

retrenchment of an employee is not an item in the IV Schedule of the Industrial Disputes Act. The IVth Schedule describes conditions of service for change of which notice is to be given under Section-9A of the Act. The counsel for the Respondent has referred to the decision in Robert D' Souza *vs* Executive Engineer, Southern Railway And Another reported in 1982 1 SCC 645 in this respect. The service of the workman involved in the case was deemed to have been terminated from the date on which he absented himself from duty. A contention was advanced that notice under Section-9A should have been given before termination. It was held that in order to attract Section-9A the employer must be desirous of effecting a change in the conditions of service in respect of any matter specified in the IV Schedule of the Act. The counsel has referred to the decision of the Madras High Court in Asokan *vs.* Presiding Officer, Labour Court, Coimbatore and Another reportd in 2009 4 LLN 582 also in this respect. Here it was held that retrenchment is not mentioned in the IVth Schedule of the Act and so Section-9A of the Act or its proviso is not applicable to a case of retrenchment.

15. The counsel for the Respondent has referred to the decision in Workman of the Food Corporation of India *Vs.* Food Corporation of India reported in 1985 2 SCC 136 also in this respect. In the Food Corporation of India the system prevalent was direct payment to the workmen. It was held that on introduction of system of direct payment by abolishing contract labour system workman acquired status of direct workman of the employer and unilateral discontinuance of direct payment system without workman's consent and reintroduction of contract labour system treating the workman as workman of the contractor would amount to termination of their services which in the absence of compliance with law in force will be illegal and void. It cannot be done without giving notice to the workman under Section-9A of the Act, it was held. This was referred to by the counsel to point out that only in the case of change in the service conditions notice under Section-9A is required. The counsel has referred to the decision of the Bombay High Court in Arvind Anand Gaikwad *vs.* Uni Abex Alloy Pvt. Ltd. reported in 1994 III LLJ 684 also where it was held that notice under Section-9A is not called for because the employer had not re-organized business but has closed down a particular section in view of the restriction in import. The decision of the Apex Court in ROBERT D' SOUZA's case referred to earlier was relied upon to enter the finding.

16. On going through the decisions relied upon by either side, it could be seen that only in cases where there is to be a change in the conditions of service of the workman notice need by giving under Section-9A of the Act. The cases referred to by the petitioner's counsel are all those wherein change was effected in the service conditions of the workman. None of them are cases where workmen were retrenched. In the case of retrenchment the employer is expected to comply with the conditions prescribed under Section-25F of the Act only. An attempt has been made by the counsel for the petitioner to make out that the change was being effected by the Respondent. According to the counsel by terminating the service of the petitioner, the Respondent has been intending to entrust the security work to outside agencies which according to him would come under Item-10 of the IVth Schedule of the Act. As per this item in case of rationalization standardization or improvement of plant or technique which is likely to lead to retrenchment of workmen notice under Section-9A is required. It has been pointed out by the counsel for the Respondent that the Respondent has not been trying any of these in the establishment. It was pointed out by him that no change of any kind was effected by the Respondent. Rationalization of an establishment is a re-organization or organization in order to improve its efficiency. In the present case the Respondent has not done anything to improve the efficiency of the establishment resulting in retrenchment. There was no standardization or improvement also. The Respondent had to give up the job of handling of security functions in view of the restriction imposed by BCAS by Ext. M3 order. It is not on the basis of any steps taken by the Respondent itself to effect some change coming under Item-10 of the Schedule of the Act. It was only because the Respondent was constrained to, it had to stop handling of security functions by itself. Of course, it had been argued by the counsel for the petitioner that in fact there is no such prohibition at all preventing the petitioner and the other Scurity Officer from handling the security functions of the Respondent. I do not think there is any merit in the contention advanced on behald of the petitioner. I will be referring to this aspect in details later.

17. In any case as pointed out by the counsel for the Respondent the Schedule of Reference does not contain the question of violations of Section-9A of the Act and there is no such plea for the petitioner also. As per the Schedule of Reference, the dispute is regarding termination of service of the petitioner only. So the only question to be considered is whether the termination is valid. The petitioner has not raised a contention in the Claim Statement that the termination is not valid in law as it is done in violation of Section-9A of the Act. The counsel for the Respondent has referred to the decision in Workmen And Others *vs.* Hindustan Lever Ltd. reported in AIR 1984 SC 516 where the Supreme Court has held that the Tribunal cannot travel beyond the pleadings and arrogate to itself the power to raise issues which the parties to the reference are precluded or prohibited from raising. In the above case the Industrial Tribunal had held that the employee is not workman though there was agreement between the employer and the union to the effect that he is a workman and the question was never raised by the parties. The counsel has also referred to a decision of the Delhi High Court in Management of Jor Bagh Vs. Workman reported in 1997 III LLJ 191 where it

was held that it was not permissible for the Labour Court to have gone to the extent of making an adjudication upon the question that whether the dispute fell under Item-11 of Schedule-IV for which notice under Section 9A of the Act was required to be served upon the workman in advance before taking any action for retrenchment. On the reference of retrenchment the Labour Court had to confine itself on the question whether the same was legal and justified, it was held. So the issue validity of notice under Section -9A does not arise for consideration at all, in the present dispute.

18. Still another contention on behalf of the petitioner is that the petitioner was discriminated terminating him from service. According to the petitioner the Respondent is having offices at Delhi, Bombay, Cochin Trivandrum and Madras. All the employees working at these stations are working in a single entity *i.e.* Gulf Air, which is the Respondent. However, Security personnel employed by the Respondent in Bombay were not terminated whereas the petitioner was terminated. This according to the petitioner is discrimination on the part of the Respondent. This allegation of discrimination is denied by the Respondent. According to the Respondent, security personnel employed at Bombay Airport raised Industrial Dispute even prior to any decision on their termination and during the conciliation proceedings Respondent entered into a settlement with the union representing the said employees and it is pursuant to this the security personnel at Bombay were re-deployed in other ground handling operations where there were vacancies. It is further stated by the Respondent that the question of comparing security personnel employed in other airports does not arise as no common seniority list is maintained.

19. The counsel for the petitioner has referred to the decision in The Manager, Government Branch Press and Another *vs.* D.B. Beliappa reported in 1979 1 SCC 477 to fortify his argument on discrimination. It is a case where the concerned workman alone was dismissed while others in this group had been retained and were allowed to continue in service. It was held that no special circumstance or reason has been disclosed which would justify discriminatory treatment to the concerned workman as a class apart from his juniors who have been retained in service. In the circumstance, the direction to reinstate the petitioner in service has been upheld.

20. In the present case, is there any discrimination so far as the petitioner is concerned? It is the specific case of the Respondent that there is no common seniority list for the security personnel working for the Respondent at different places and persons working in each centres were treated separately. It is apparent from the evidence of the petitioner itself that there was no such common seniority list of treatment of security personnel as a class for all the centres together. The petitioner has stated in his cross-examination that after his appointment in 1984 he had continued to work in Chennai only and had no occasion to work anywhere. MW1 has stated that no common seniority list is maintained. The petitioner has not proved that all the security personnel were treated together and they were amenable for transfer from one place to another. Any incident of transfer among the security personnel from one centre to another has not been brought to notice also. So the manner in which the security personnel at Mumbai were treated could not be a reason to consider the treatment of the petitioner as discrimination. The circumstance under which the security personnel at Bombay were retained is stated in the Counter Statement as well as in the evidence of MW1. It is apparent from the contention of the petitioner itself that the security personnel at Bombay also were not allowed to continue in service as security personnel but they are re-deployed in ground handling activities. According to the Respondent, at Chennai only two security personnel are available and the number of employees are limited. There was no vacancy to employe them in other areas. So the case of discrimination put forth by the petitioner also could not be accepted.

21. Another contention raised on behalf of the peitioner is that the persons working in Cochin under the Respondent as security personnel are junior to the petitioner but they were terminated only two months later to the petitioner and therefore the Respondent has not followed Section-25G of the Industrial Disputes Act. For one thing, it is not proved by the petitioner that he security personnel at Cochin are junior to the petitioner. Again since there is no common seniority list there could not be violation of Section-25G of the Industrial Disputes Act.

22 It is pointed out by the Respondent that it was because of the inevitable contingency that the petitioner had to be terminated from service. Ext. M3 is the order of BCAS dated 21.08.2009 alongwith corrigendum dated 03.02.2014. As per the order the Bureau has referred to 13 activities pertaining to aircraft operations to be treated as Aircraft Operators Aviation Security Functions. As per Clause-4 of this, foreign airlines are to enter into agreement with Indian Air Carriers having international operation from the respective airport only after specific approval from the Bureau. By the corrigendum of 2014 some change was made in the clause and foreign airlines were allowed to enter into agreement with Indian Air Carriers having operation from the airport and the concerned foreign airline is to inform the Bureau regarding the arrangement. Even after the order of 2008 preventing foreign airlines from directly handling security operations the Respondent continued to handle the security functions by itself with the petitioner and another as employees. It seems the Bureau has been taking steps against this. The Respondent has produced several communications from the BCAS in this respect. Ext. M5 is one such communication issued to the Chief Security Officer British Airways Ltd. This was in response to the letter by the British Airways for approval of the aircraft

operator's security programme. This states that as per the order of 2009 foreign airlines are to enter into contract with Indian Air Carriers for security functions and the order does not authorize any foreign airlines to self-handle the security functions. Ext. M6 is a fax message from the BCAS issued in 2012 stating that it has come to the notice of the Bureau that foreign airlines are allowed to do self-handling at airports violating the order of 2009 and action is to be taken in the light of the order. Ext. M7 is also regarding the implementation of the order. Ext M8 also is a communication issued to the Airport Directors stating that the practice of self-handling at airports in violation of the order of 2009 should be stopped with immediate effect. The Directors are instructed to furnish the names of those foreign airlines which are self-handling security functions. Ext M10 is a letter from the BCAS to the Respondent returning the security program submitted by the Respondent. This reiterates that as per the order of 2009 foreign airlines are not allowed to do self-handling of the security functions. It is further stated that the Foreign airlines may enter into contract with Indian Air Carriers having international operations from the Airport.

23. MW1 has stated that it is in view of the order of the BCAS that the petitioner had to be terminated from service. It is stated by MW1 in the affidavit that even after the order of 2009 the petitioner was not immediately terminated from service but the matter was dragged on for a long time. It is pointed out by the counsel for the Respondent that it shows the *bonafides* of the Respondent and the attempt of the Respondent to retain the petitioner in service in spite of the order. It was only when action was recommended the petitioner had been terminated. This stand of the Respondent seems to be correct. Even after the order of the Bureau, the petitioner had continued in service for quite a number of years.

24. The petitioner has stated in the Claim Statement that as per the corrigendum of 2014 the organizations which have not established their own training institute shall deploy their security staff to carry out allocated security functions for the respective organizations only after they are trained in one of the BCAS approved training institution and certified by the BCAS. This part of the order was quoted by the petitioner to state that the existing staff need not be disengaged but can be retained. It is pointed out on behalf of the Respondent that even though foreign airlines are not allowed to handle security functions by themselves they are required to appoint Chief Security Officer and a Security Coordinator for each station of operation and these position holders must obtain the required training. The reference to training in the order of 2014 is only regarding Chief Security Officer and Security Coordinator, It is pointed out. The petitioner had made three attempts to clear the BCAS Certification Course but had not succeeded, as stated by him during the cross examination. So he would not fit in with the requirements of the BCAS.

25. It is pointed out by the counsel for the Respondent that the orders of BCAS are not challenged and they are binding on the petitioner. The counsel has referred to the decision of the Madras High Court in INDIAN COMMERCIAL PILOTS ASSOCIATION *VS.* UNION OF INDIA reported in 2006 4 MLJ 289 where it was held that a circular issued by the Central Government under the Aircraft Rules is not *ultra-vires.* So the order of the BCAS is binding on the petitioner as well as on the Respondent. It was only because of the order the Respondent had to terminate the service of the petitioner. In this respect the counsel for the Respondent has referred to the decision WORKMAN OF SUBONG TEA ESTATE *VS.* SUBONG TEA ESTATE AND ANOTHER (referred to earlier) where it was held that the management can retrench its employees but for proper reasons and it is for the industrial adjudicator to consider where the retrenchment was justified for proper reasons. It cannot be said that the retrenchment of the petitioner is without justification.Though, not on account of any fault of the petitioner the retrenchment was necessitated because of inevitability of the circumstances.

26. The petitioner has stated that if the Respondent feared penal action from the BCAS it could have absorbed the petitioner in another department. It is pointed out that this is what was done in the case of security personnel in Bombay. The stand of the Respondent is that no vacancy was available in any of the positions. This implies that if there is any vacancy in which the petitioner could be fitted with his qualification and experience he would have been re-deployed to that position. This can be done by the Respondent even now. Section 25H of the Industrial Disputes Act states that where any workmen are retrenched and the employer proposes to take into his employ any person he can give an opportunity to the retrenched workman to offer themselves for re-employment and such workmen who offer themselves for re-employment shall have preference over other persons. The petitioner has offered himself to be employed in the Respondent establishment, even at centres other than Chennai. In case any vacancy suitable in accordance with the qualification and experience of the petitioner arises the Respondent can re-employ the petitioner in that vacancy. The petitioner was terminated by order dated 21.03.2014. More than a year has elapsed after this. The Respondent shall consider re-employment of the petitioner without delay.

Accordingly an award is passed as follows:

The Respondent is directed to give-re-employment to the petitioner in vacancy to which he will fit in one of the basis of his qualification and experience. The reference is answered accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri A.G. Ravi Kumar

For the 2nd Party/Management : MW1, Capt. Surinder Khajuria

Documents Marked:

On the petitioner's side

Ex. No.	Date	Description
Ext.W1	21.06.2009	Bureau of Civil Aviation Security Order No. 03/2009
Ext.W2	25.08.1994	Confirmation Order issued to petitioner
Ext.W3	21.03.2014	Termination order issued to petitioner
Ext.W4	03.04.2014	Dispute raised by the petitioner before the Assistant Labour Commissioner (Central)
Ext.W5	07.05.2014	Certificate issued by the Respondent
Ext.W6	16.06.2014	Reply filed by the Respondent before ALC with annexure
Ext.W7	18.06.2014	Bureau of Civil Aviation Security Order No. 03/2014
Ext.W8	26.06.2014	Reply filed by the petitioner before ALC
Ext.W9	26.08.2014	Reply filed by the Respondent before ALC
Ext.W10		Identity Card, Certificates
Ext.W11	10.12.2014	Section 12(3) settlement between Respondent and the Gulf Air Employees Association

On the Management's side

ExNo.	Date	Description
Ext.M1	27.03.2001	AVSEC Order No. 3 of 2001
Ext.M2	28.08.2006	AVSEC Order No. 16 of 2006
Ext.M3	21.08.2009	AVSEC Order No. 3 of 2009 with corrigendum dated 03.02.2014
Ext.M4	2011-2012	Basic AVSEC held RDCOS Chennai
Ext.M5	30.04.2012	Approval of the Aircraft Operating Security Program of M/s British Airways Ltd., approved by BCAS
Ext.M6	13.07.2012	Fax message from BCAS to all RDCOS, BCAS regarding implementation of AVSEC Order No. 3 of 2009
Ext.M7	03.08.2012	Communication from BCAS to Station Manager, Gulf Air, Mumbai in regard to implementation of AVSEC order No. 3/2009
Ext.M8	07.08.2012	BCAS Notice to all the Airport Directors, AAI, CIAC and AOC in regard to implementation of AVSEC order 3/2009
Ext.M9	13.08.2012	Approval of the Aircraft Operators Security Programme of M/s Sri Lankan Airline by BCAS
Ext.M10	23.08.2012	Notice sent by BCAS to Gulf Air
Ext.M11	13.05.2013	Notice sent by BCAS to Gulf Airlines Manager (Security), Chennai
Ext.M12	14.10.2013	Notice sent by BCAS to the Manager, Gulf Air, Mumbai
Ext.M13	22.10.2013	Notice sent by BCAS to Station Manager, Gulf Air
Ext.M14	09.01.2014	Notice sent by BCAS to Manager (Security) Gulf Air Chennai

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